

MINUTES  
FOR THE MEETING OF THE  
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: May 18 20, 2021  
TIME: 9:00 am  
PLACE: Online via Zoom  
Meeting ID: 942 0071 9885

Chairperson Suzanne D. Case called the meeting of the Commission on Water Resource Management to order at 9:03 a.m. and stated it's being held remotely and being live streamed via YouTube for public viewing due to the ongoing Covid-19 pandemic; noted the meeting was set to take live oral testimony and any written testimony would be acknowledged when the submittal items come up. Chairperson Case also read the standard contested case statement.

**MEMBERS:** Chairperson Suzanne Case, Dr. Kamana Beamer, Mr. Michael Buck, Mr. Neil Hannahs, Mr. Wayne Katayama, Mr. Keith Kawaoka, Mr. Paul Meyer

**COUNSEL:** Ms. Cindy Young

**STAFF:** Deputy M. Kaleo Manuel, Mr. Dean Uyeno, Mr. Roy Hardy, Dr. Ayron Strauch, Mr. Neal Fujii, Mr. Jeremy Kimura, Mr. Nicholas Ing, Ms. Rae Ann Hyatt

**OTHERS:** Ms. Kapua Sproat (Ka Huli Ao); Ms. U'ilani Tanigawa Lum (behalf of Wai'oli Valley Taro Hui <WVTH>); Dr. Jonathan Likeke Scheuer, Mr. Mahesh Cleveland (EarthJustice); Ms. Karyn Kanekoa (Aha Punana Leo o Lahaina); Ms. Kanoelani Steward; Ms. Eva Blumenstein (Maui Dept. of Water Supply <MDWS>); Mr. Gil Keith-Agran (Counsel for Maui Land & Pineapple); Mr. Paul Subrata (Maui Land & Pineapple <MLP>); Mr. Ken Kawahara (Akinaka & Assoc.); Mr. Anthony Carrasco (Hawai'i Water); Mr. Bruce Tsuchida (Townscape Inc.); Ms. Sherrie Hiraoka (Townscape Inc.); Mr. John Hoffman (U.S. Geological Survey); Mr. Scot Izuka (USGS); Ms. Madison May (USGS); Mr. Thomas Giambelluca (Hawai'i Mesonet); Ms. Dani Yoo (DLNR-Engineering); Mr. Gayson Ching (DLNR-Engineering), Mr. Lance Fukumoto (Fukunaga Engineers); Ms. Amanda Miyahara (Fukunaga Engineers)

All copies of written testimonies submitted will be included at the end of the minutes and is filed in the Commission office and are available for review by interested parties.

**051821 00:05:33**

**A. APPROVAL OF MINUTES**

April 20, 2021

PUBLIC TESTIMONY – None

**MOTION: (BEAMER/KATAYAM)**  
**To approve the minutes as submitted.**  
**UNANIMOUSLY APPROVED**

*051821 00:06:17*

**B. ACTION ITEMS****1. Amend Interim Instream Flow Standards for Wai‘oli Stream in the Surface Water Hydrologic Unit of Wai‘oli (2018), Wai‘oli Stream, Halele‘a, North Kaua‘i**

PRESENTATION GIVEN BY: Dr. Ayron Strauch, CWRM Stream Protection & Management Branch

Dr. Strauch stated the summary of request and provided a brief summary of the staffs’ recommendations that the IIFS shall be established at a flow of 6.3 cfs (4.0 mgd) at all times, that during drought conditions, only 50% of the water shall be diverted from the stream in order to protect instream values. This results in a varying amount of water for kalo production based on the amount of water flowing in the stream. The interim IFS may be revised by future Commission action as more data are gathered.

The Wai‘oli Valley Taro Hui will monitor East Wai‘oli Ditch below the Diversion 1412 intake and report the quantity of water removed at the po‘owai to the Commission quarterly.

PUBLIC TESTIMONY

Ms. Kapua Sproat, Director, UH Law School – Ka Huli Ao (for Wai‘oli Valley Taro Hui) – Aloha mai kākou and Mahalo to you and your staff. I’m here with U‘ilani Tanigawa-Lum and JoAnn Kaona from the Hui and will provide her own testimony.

I just wanted to say mahalo and let you know I’m available in case you have any questions. In particular, I wanted to mahalo Ayron, Dean and Kaleo for all that they have done and will continue to do to support the Hui with respect to this IIFS, monitoring and additional measurements, evaluation, and more. I also want to recognize the many students in our Native Hawaiian Rights and Environmental law clinics who work tirelessly to translate the farmers bio-culture knowledge and traditional practices into legal technical and other formats.

This has truly been a kākou effort and would also like to acknowledge other partners who made this possible including the Office of Hawaiian Affairs, the Department of Hawaiian Home Lands, DLNR-Land Division & DOFAW, and Linda Chow.

At the last Commission meeting, Commissioner Beamer asked what can be learned from this and how it can be a model? My answer then was incomplete and add (mindfully) we’re not pau yet. This effort has been successful thus far, because of the practitioners here with the

knowledge of the ‘āina and wai is what drove the process and moving forward. Precisely as what you folks have done with kalana and how that guides resource management and wai in particular in Wai‘oli. I believe this is the best example of interagency coordination in support of natural and cultural resources of traditional and customary native Hawaiian rights and practices and community.

Mahalo for this model in adaptive management and community partnership; and please vote today to approve this submittal.

Ms. JoAnn Kaona, Secretary, Wai‘oli Valley Taro Hui – Aloha Commissioners, Deputy Director Manuel and staff. I’m a four generation native Hawaiian kalo farmer in Wai‘oli Valley. I’m here today with [Wai‘oli Taro Farmers] whom submitted written testimony all in strong support of the staff submittal. We support all four (4) recommendations with respect to the IIFS, monitoring, evaluation, and T&C. Mahalo for all your support and aloha and ask for you to vote today as its been three (3) years since the 2018 floods and although we’ve come a long way, we still have a lot to go and a lot of kuleana remains so we can focus on restoring our farms and way of life. Your action today is critical to all us to move forward, so please vote to approve the submittal.

Ms. U‘ilani Tanigawa Lum, UH Law School, Ka Huli Ao – Aloha kākou. Mahalo for the opportunity to testify in support of the Wai‘oli Valley Taro Hui and staff’s recommendation. I want to convey my gratitude and admiration to this Commission and staff for a thoughtful submittal in line with Native Hawaiian tradition and custom and taking the time to work with and most importantly learn from the Hui. They are the experts of this resource and embody this idea of kuleana to care for the wai. That excellence is carried out through pilina, relationships with one another, with you all, and importantly ‘āina.

I want to commend the Commission and staff for the adaptive management model approach that empowers this resilient community while ensuring our collectively goal in protecting the wai. Mahalo for your time and hard-work and please vote today to approve this model.

## COMMENTS

Commissioner Beamer – echoed the mahalo as a Commissioner to each of you, the community and all of the staff. This is a great example of us working alongside with community to help empower and resolve longstanding issues; fantastic work and I’m in full support.

*Chairperson Case noted that Dr. Beamer’s comments reflect the sentiments of all the Commissioners and asked Dr. Beamer for a motion.*

**MOTION: (BEAMER/HANNAHS)**  
**To approve B-1 as submitted**  
**UNANIMOUSLY APPROVED**

*Chairperson Case thanked everyone for the great work and noted there’s still a lot of work to be done but the importance of this opened the path forward.*

051821 00:14:23

**B. ACTION ITEMS (CONT'D)**

**2. Approve Surface Water Reservation of 2.00 Million Gallons per Day for the Department of Hawaiian Home Lands and Amend Interim Instream Flow Standards for Honokōhau and Kaluanui Streams in the Surface Water Hydrologic Unit of Honokōhau (6014) and Honolulu Stream in the Surface Water Hydrologic Unit of Honolulu (6013), West Maui**

PRESENTATION GIVEN BY: Dr. Ayron Strauch, CWRM Stream Protection & Management Branch

Dr. Strauch gave a summary of the submittal request then gave a PowerPoint presentation of the overview of the complexities of the area and briefed on the updated DHHL regional plan for the subject areas in terms of water usage. Majority of the water use will come from Honokōhau Stream. The continuous information comes from the long-term USGS gaging station located at Honokōhau Stream which also has three (3) sources of water coming from tunnels 21 & 22, and a spring discharge. Additional future monitoring will also come from the McDonald's Dam which provides real-time flow data and is also downstream from Taro Gate. The combined total of non-instream uses is approximately 4.55 mgd. The IIFS will be implemented as a two-phased approach to ensure protection of and to meet instream and public trust uses.

To also meet the 2019 Commission order, staff is also recommending Maui Land & Pine (MLP) seal intake #1 at Aotaki Weir and by doing so, they will maintain the flow of water necessary to meet off-stream needs but keep the low and high-flows in the stream. Adjustments and upgrades are also needed to be made at Adit #16 in which MLP is aware and working on.

**QUESTIONS**

Commissioner Buck – asked on Maui County's allocation amount.

Dr. Strauch – I'm just stating over the last few years they averaged 1.7 mgd and rarely do they take 2.1 mgd and noted that's reflected in monthly reports, they have never taken the 2.5 allowed.

Commissioner Buck – would MLP increasing pumping of the groundwater affect characteristics of the stream?

Dr. Strauch – the wells are sufficiently far away from Honokōhau and the existing pumpage is below sustainable yield and no risk for affecting surface water resources.

Commissioner Buck – should the Commission be concerned of the Kapalua Water Company?

Dr. Strauch – per MLP, Hawaii Water Service purchased KWC and Kapalua Wastewater and will continue to operate them, but they did not purchase the ditch, the land that holds the diversion intake; they don't own the infrastructure; MLP can speak to the logistics of that. I believe MLP is still the operating entity for the irrigation system.

Commissioner Buck – have you had any communications with them (Hawaii Water Service)?

Dr. Strauch – last year we had a meeting to discuss what their plans.

Commissioner Beamer – asked about connectivity of the streams.

Dr. Strauch – mauka to makai flows occur around Aotaki Weir because of the new channel carved out. We're suggesting the low-flows stay in the stream by sealing up the lower part of the intake as a course adjustment to meet the IIFS. Understanding that access is challenging as you need to helicopter in so we're not suggesting now they can create something that can be fine-tuned and conferring it can be done at Taro Gate or Adit #16. Restricting the low-flows from the irrigation ditch will add to the connectivity at Aotaki Weir.

Commissioner Hannahs – asked on the 0.6 mgd system loss if it will improve with new stewardship?

Dr. Strauch – noted the acceptable system losses are in the 10-20% range and 0.6 is an estimate as it's a fairly well-maintained system and conferred MLP still owns the irrigation ditch but may hire HWS to maintain it.

#### PUBLIC TESTIMONY

Mr. Mahesh Cleveland, EarthJustice – Good Morning Chair Case and Commissioners. We're not currently representing anyone from Honokōhau but wanted to offer comments in support of this submittal and urge you to vote to approve it. I'm from East Maui and is not often you drive around the West Maui mountains and when you do, you see Honokōhau and it gives you that feeling of Hawai'i past and future co-exist and as an outsider, to me, never really understood what it meant in the present. Here, we have a community that has been putting in the work to enhance the stability of their community and create food security.

I want to applaud the Commission and staff in doing a good job in balancing the instream and off-stream needs here for those viewing this as a win-win; and despite 50% of restoration, it's a compromise for the valley and these folks are willing to work with the off-stream users. Hopefully with the amount of flow going into the stream, they'll be able to accomplish their lo'i restoration and meet their public trust needs. We would caution as using this 50% restoration as a one-size fits all and I know the Commission is embracing adaptive methods of management. A lot of streams in Hawai'i are not as high-volume flow as Honokōhau and encourage (the staff) to look at streams on a place-by-place basis as you already do, and if necessary to restore a much higher percentage of streamflow.

Once concern is implementation and enforcement. Making sure this streamflow is restored by the 120-day deadline and in circumstances where flow is compromised, is that there are mechanisms in place to enforce the IIFS, as interruption of flow can devastate a kalo crop in a matter of days; and this lacks in the staff submittal, how to enforce it.

Finally, mahalo also to DHHL for their willingness to use their surface water allocation in the future to dilute R-1 water from the reclamation facility. This is the kind solution where people of different interest on Maui have an adaptive management approach and do support that and would be happy to see that water used for something rather than pumped into the ground. We support the IIFS to the extent the Honokōhau community does. Mahalo to the Commission and staff.

Hui Nā Mamo Aloha ‘Āina o Honokōhau

Sanna Ka‘uhane – Aloha Commissioners, Ayron and Kaleo. My family and I live in Honokōhau Valley where we farm dry land kalo and hope to say the next time that we farm wet-land kalo. I submitted written testimony that talks about the islands inside of Honokōhau Stream and their effects on streamflow, specifically in the Q90 period and would like to ask the Commission to use these numbers today as opposed to my written testimony. I do support the DHHL reservation of 2.0 mgd. I do want to see Maui Land & Pine start taking action to improve their intake as ordered in 2019 and in a timely manner. I also ask the Commission to establish enforcement guidelines so that we can keep a watchful eye on our off-stream neighbors to ensure not more than what is dictated is taken.

I support this IFS but the second phase Q90 flow of 6.8 mgd is a concern. There are multiple islands within Honokōhau Stream. The island where we live, Helea is 2.58 acres which is a long island that splits the streamflow unevenly with 80% flowing on one-side. In these drought periods, 6.8 mgd will not be sufficient enough to sustain stream life in these island areas. In the Q90 phase, there’s an unmet demand of 1.3 mgd but more concerned that MLP is still receiving any water during these times. They possess wells that are capable of meeting their demands and could cut back on irrigation to golf courses, resorts and luxury homes during these drought periods, where we should all be mindful of water consumption. If they use their backup sources during the drought periods, there would be an extra 1.8 mgd in the stream. MLP has alternatives, the river doesn’t.

Mahalo for taking the time to listen to all of us today.

Ms. Healani Kānekoa, Student, Lahainaluna High School –

Aloha mai kākou. ‘O Healani Kānekoa ko‘u inoa. He haumana au ma ka papa ‘umi o ke kula kaiapuni ‘o Lahainaluna. Noho au ma ke awāwa o Honokōhau ma ka moku o Kā‘anapali me ko‘u ‘ohana, ko‘u mau tūtū, a me ko‘u kupunawahine kuakahi. He hanauna nohopapa au o ko‘u kupunakāne kuakolu ‘o Apo Young. He mahi kalo ‘o ia no Honokōhau. Ua pono ‘o ia e ha‘alele i kona home a me kona hana aloha ma Honokōhau ma muli o ka lawe ‘ia o ka wai e MLP. Ma muli o ka wai ‘ole, ua make nā kalo. Me ke koho ‘ole, ua pono ko‘u kūpuna e ha‘alele a ‘imi i kekahi hana hou.

Kāko‘o au i kēia IIFS no Honokōhau me ka mana‘o e a‘o i ka‘u mau keiki i nā ‘ike a me nā hana no‘eau o ka mahi kalo. ‘O ke kalo ka mea kanu o kēia pae ‘āina a he mea nui ka ho‘omau a ho‘ola‘ana me ka ‘oi kelakela ma o ka mālama ‘ana i kona mea ho‘olako, ‘o ia no ka wai. O au o Healani Kānekoa a kāko‘o au i kēia IIFS no Honokōhau.

Aloha. I live in Honokōhau Valley with my ‘ohana, my grandparents and great-grandmother. I am a descendent of my great-great grandfather Aipo Young who was a kalo farmer in Honokōhau who was sadly forced to leave his passion and home when the plantation began diverting most of the valleys’ water. Due to the lack of water, the kalo began to rot which left him no choice but to leave and find another way of living.

I support the proposed IIFS for Honokōhau Valley because I want to be able to teach my children the art and culture of farming kalo in which water is the main foundation needed to continue this beautiful practice. As the official state plant of Hawai‘i, kalo should be perpetuated to the highest standards by maintaining its natural provider that plays a huge role in the earth’s ecosystems, which is water.

Commissioner Beamer – Mahalo nui iā ‘oe e Healani a hiki ke ‘ike ua mākaukau ‘oe i kēia hana ko‘iko‘i i kou ‘ohana wahi. Mahalo nui i kou mana‘o. Mahalo.

#### PUBLIC TESTIMONY (CONT'D)

Ms. Charmaine Yamada, Honokōhau Valley Resident – Aloha mai kākou. ‘O Charmaine Yamada ko‘u inoa. Noho wau ma Honokōhau. I’m here today with my keiki to show my support for the IIFS and DHHL reservation. We also support the testimony of our friends and neighbors. We are farming dry land kalo at this time and restoring the wai will also restore our mala into lo‘i. In our valley there are seven (7) ‘ohana that have had children in Kula Kaiapuni and is important to us to revitalize ‘Ōlelo Hawai‘i and that we actively engage in our cultural practices that make pa‘a, our values which is mālama ‘āina, kuleana, mālama kekahi i kekahi, laulima and lōkahi. With our and other ‘ohana, all host educational events that allow our Kaiapuni and Punana Leo families, to engage in these cultural practices.

This IIFS is not only important for the ‘ohana of Honokōhau but for our larger community. The restoration of the stream will revitalize the health of the valley, our families, our community, and culture, now and for generations to come.

Ms. Manalani Yamada - Aloha. ‘O wau ‘o Manalani Yamada. He keiki au no Honokōhau. He ko‘iko‘i ka ho‘i ‘ana i ka wai i kō mākou kahawai i hiki mākou ke ho‘omau ke kanu ‘ana i nā kalo. He ko‘iko‘i ka ho‘i ‘ana ka ola i kō mākou awāwa. Mahalo.

Aloha. I’m a keiki of Honokōhau. Returning the water to our stream is important so that we can continue to grow kalo. It is important in restoring life to our valley. Mahalo.

Miss Haunani Yamada - Aloha. ‘O Haunani ko‘u inoa. He keiki au no Honokōhau. Kakoo wau i ka ho‘i ‘ana o ka wai i Honokōhau. Ko‘iko‘i ka ho‘i ‘ana i ka wai i Honokōhau no nā i‘a ma ke kahawai, nā lo‘i kalo, a me nā kānaka a me nā mea ola a pau ma Honokōhau.

Aloha. I’m a keiki of Honokōhau Valley. I support restoring the water to Honokōhau. It’s important to restore the water for fish in the river, the lo‘i kalo, and the people of Honokōhau; mahalo.

Mr. Kalama'ehu Takahashi – Welina ma ka 'Ōlelo Hawai'i

Aloha mai kākou. I'd like to voice my mahalo in support for the Hui Na Mamo Aloha 'Aina o Honokōhau. As a current resident of Honokōhau and after consultation with other long-term residents of multi-generational lineal descendants, I'm in support of the 2.0 mgd to DHHL as well as the interim instream flow standards. The return of wai is a integral and powerful metaphor for the cultural resurges within Honokōhau Valley through hana lo'i, specifically with the efforts of this Hui in support of place-based 'āina and 'Ōlelo Hawai'i based education, rooted in a multi-generational 'ike, of this community and these 'ohana.

As a beneficiary of the aloha and support of these 'ohana and wai, my thoughts and aloha are with them in what they decide for the future of these resources. I want to cite the 2019 water complaint that was placed, in an effort to push for the measures of accountability and enforcement for MLP and how they mālama wai.

I'm also in support of the modification of the intake in order to keep as much water in the river as possible to not allow waste. In the future, they cannot be allowed to take more than their beneficial use as dictated and as a resident, be kept in the loop as to the details of this progress and process. I support the use for DHHL as this resource will be used for the benefit of the native Hawaiian community.

I do have comments for the off-stream uses citing table 10 which is the current actual future estimated water for use for Kapalua-Napili region; I'm not in support for the stream water used for irrigation for Kapalua resorts, common areas, landscaping, and golf courses as these luxury gentlemen estates do not benefit the native Hawaiian community. Overall, I'm not in support of residential resort, commercial, industrial property leases, and resort amenities which are described in the informational staff submittal, as these are not public trust uses. This along with the reported wells located within MLP land holdings, I do not support the use of water for any of the aforementioned uses from Honokōhau and Kaluanui Streams.

The report says there's 5.15 acres identified as kūleana lands and lo'i grown in less than 3.5; *(cited an newspaper article written in 'Ōlelo Hawai'i from Ka Nupepa Kuokoa 1872)* which described Honokōhau Valley and the abundance of kalo grown. I think we could do this with efforts and more water in our streams; and I support all the other kalo farmers in the valley doing the good work.

*(stated his aloha and support in 'Ōlelo Hawai'i with the notation and respect of mālama 'āina)*

PUBLIC TESTIMONY (CONT'D)Maka Kānekoa–

Aloha. I support the testimonies of my fellow Honokōhau 'ohana. I'm a keiki of Honokōhau where I live today with my wife, my keiki, my mākuā and tūtū wahine. I come from a long line of generational kalo farmers; I myself continue to farm kalo and currently unable to grow kalo to the capacity my kupuna once did due to the lack of water in 'auwai. I'm testifying today in support for the IIFS proposed with reservations. Being a public trust, I support DHHL and DWS receiving water from Honokōhau Stream however do not support MLP receiving water from Honokōhau Stream due to mis-management, neglect and abuse to the stream for many



years. My great-grandfather was forced to leave the only way of life he knew, being a farmer and fisherman of Honokōhau Valley, because of the depletion of the stream and resources. This cultural genocide cannot continue. I want my children to know they can farm kalo for generations to come as their kūpuna have done.

I feel with the return of water and propose of the IIFS, our 'ohana and other families will be able to continue farming kalo; mahalo, aloha.

Willie Wood, Honokōhau Valley Resident – Aloha. My family and I are Honokōhau Valley residents. We support the proposed IIFS of Honokōhau along with DHHL future reservation on 2.0 mgd. My family along with the community restored lo'i and raise kalo in Honokōhau Valley. The majority of what is grown is donated to the community, for school fundraising and family events. There have been many occasions where our entire crop has been destroyed due to lack of water in the stream which could've been avoided with proper maintenance of Taro Gate by MLP.

There was a period of years where I had to call MLP to encourage them to clean the Taro Gate so the flow would be restored to the 'auwai. Unfortunately, it could take them up to 10-days or more and at that point, damage is done, not only to the crops but to the livestock and native stream life. This is the reason we believe it's important that the new system put in place allows the water to stay in the stream regardless of the diversion or response time of MLP.

We would encourage the Commission and MLP to consider using a similar system like Kahoma Valley's intake rather than an electronic gate that take power, require regular maintenance and could malfunction. A permanent pipe would take basic maintenance like cleaning the Taro Gate after the high-water and would ensure the water stays in the stream giving MLP time to respond. Mahalo for your consideration and time.

Mr. Kalei Kauhane, Honokōhau Valley Resident – Aloha kākou. I'm a resident and kalo farmer in the 'ili of Ni'ula in the valley of Honokōhau. My family and I are forced to grow dry land kalo in a place our kupuna engineered and shaped to grow wet land kalo in lo'i. The 'auwai system that should feed our patches covered four 'ili and used to irrigate two-hundred nine (209) lo'i.

Some of the reasons why this 'auwai system does not run anymore and forces my family to grow dry land kalo but culturally and traditionally should be wet land lo'i. 1) told by kupunas that the company before MLP took bulldozers up to Pilinoe aka Lychee Orchard to Kamani, Ni'ula, and ends in Keaua'elua, and flattened everything from patches 737 to 681, including placing the bulldozer in the river and flattening the po'owai that feeds the 'auwai. 2) there's not enough water in Honokōhau river for us to restore our 'auwai system. If we were to restore our po'owai and restore the 'auwai, the kalo farmers down below us will not have enough water to feed their kalo patches.

The history of the sons of missionaries, turned business men and their engineers that built these dams and water diversions tunnels which was genius; but in the present day can't do simple repairs to the system which leaves wasted water. As Willie said before, (MLP) can't clean Taro

Gate within the three (3) day response time. It goes to show MLP are not good stewards of the water.

*(spoke of ancient Hawaiian history where farmers had a great kuleana for their land areas and was severely punished for a violation)*

By the laws set by the Commission, let's hold MLP accountable for the neglect of these ditches to make repairs and adjustments at intake 770 where they're only allowed to take what's permitted; and setting a fine so high for everyday overuse and forces them to abide. Water is life for us, the stream and the land that gives life to our ocean. For them, it's dollar signs and green grass.

Ola i ka wai.

#### PUBLIC TESTIMONY (CONT'D)

Ms. Karyn Kanekoa, Hui Nā Mamo Aloha 'Āina o Honokōhau – Aloha Commissioners. We are a 501c(3) made up of lineal descendants and residents. Our hui's mission is to preserve cultural sites, restore stream life and lo'i throughout the valley and engaging our community through educational workshops through workdays. We strive to accomplish these goals through 'Ōlelo Hawai'i. We as a hui are in support of the IIFS with reservations.

We support DHHL receiving 2.0 mgd as we hope to see Hawaiians occupying the Māhinahina Homestead soon. We support DWS receiving 2.5 mgd because they're a public trust but do not support MLP receiving 1.8 mgd. They're not a public trust and have a record of wasting water and continue to do so. They have three (3) wells, two of which have pumps they could be using to provide their water needs.

Our stream life and kalo takes precedence over gentlemen estates, resorts and golf courses. Honokōhau Stream and its kalo have been suffering for over 100-years due to the plantation diversions, water mis-management neglect and abuse. We would like to see upgrades in a timely manner upgrades to diversion 770 allowing water to leave the stream at any given time. In 2019, the Commission directed MLP to make upgrades to diversion 770, and seen no improvement since then.

We support the testimony of our neighbors and understand the meaning of lōkahi and all work together to share what water is available to us. Currently, there are numerous dry patches in the valley as families await MLP's intake to be improved and the wasted water, returned to the stream. We continue to restore lo'i one lo'i at a time, with the hopes every 'ohana in Honokōhau have lo'i to feed themselves. We hope to see our stream full of hihiwai, 'o'opu and 'ōpae once again.

On another note, we would like to request a contested case if another party asks for one but are not asking for one right now. Mahalo nui for taking the time to listen to our testimonies today.

#### PUBLIC TESTIMONY (CONT'D)

Mr. Kapali Keahi, on behalf of Keahi 'Ohana – Aloha. We support the Honokōhau community and 'ohana's. For generations the 'ohana of Honokōhau has been at the forefront of water reclamation. The issues of extracting water from the river has been very detrimental to the community and been resisting for many generations, the control of the system by the plantation. The control of the West Maui watershed by the plantation has only led to the displacement of our kānaka maoli, the influx of foreigners and settler society that it dominates social, political and economic discourse here in West Maui. If we're made, we have a reason to be.

You do have a chance to turn back the hands of time. This Commission has helped our 'ohana in Kahoma and Kaua'ula; let's continue this trend because it's beneficial to our community and sorely needed as a society. You heard earlier, much of our keiki has been speaking 'Ōlelo Hawai'i to you, so as you see how much it (the plantations) controlled our natural resources but even social control.

This has been a blessing for us as the staff has been very gracious in their time and effort to go out and do the research that's necessary for this. I encourage this Commission to make the right decision for our future. It is of grave importance for us that we protect the natural resources, for future generations. Mahalo again, and I support the submittal along with the reservations set forth by the Honokōhau community and hope to see you more as we go along the West Maui mountains and start to open up more rivers.

#### PUBLIC TESTIMONY (CONT'D)

Archie Kalepa -

Aloha Chair Case, Commission Members, Neal and Dr. Beamer. I want to say a big mahalo. We supposed to be sailing on Hokūle'a but because of weather, we're still here. It was touching to see the community of Honokōhau and how educated they are in what they want to happen in their valley. Hawaiians are educated today as you saw in the youth with the keiki speaking Hawaiian. There's many things at the forefront in making Hawai'i a better place with its people and it's important to the true survival of Hawai'i; it's strengthening to hear what there doing. When Kahoma started their fight, which is an educational process, you listened and what we're seeing today, is part of that product. When we opened up Kahoma Stream, what we seen in the last 10-years happen, from our aquifers being refilled to the re-spawning of fish. That stream been dry for 130-years to its flowing today and how healthy it is and connecting to the ocean and helping our reef.

The native Hawaiians had a way to find balance in community and the place they lived. Now it's such an imbalance that we're trying to bring things back into balance of being self-sustainable, allowing our streams to flow mauka to makai; we're not wasting water but preserving our planet Earth; that's the bigger scope than all of this. Everyone is taking kuleana of their place, and in turn this place begins take care of our Earth and Hawai'i is leading the way. With you help in supporting efforts like this, for generations to come, Hawai'i will be better place as it once was. We can continue to create ways to understand what's happening from mauka to makai; they (Honokōhau residents) are living it; it's their home and they understand it better than anyone else. We need you to believe in and support the community for it to thrive.

I want to commend you for the valuable work you're doing because it allows our keiki to fight for what they believe in and have a future, mahalo and aloha.

Tiare Lawrence -

Aloha Commission members. Mahalo for your due diligence in volunteering your time. I want to acknowledge the Commission and work that Ayron did throughout the last two (2) years since 2019 in reaching out and being responsive to the community. I also support all the testimonies presented before me and the DHHL reservation however want to address a few concerns.

I urge the Commission to pressure the hotels and the County to remedy the salt-water intrusion problem in the wastewater pipes that service Kā'anapali. The plan is that DHHL would use an R-1 surface water mix and urge you to address that with the County. It's unfair that DHHL homesteaders are having to use that mixture when it should be applied to the Kapalua hotels, golf courses and luxury homes.

Secondly, the matter of enforcement; to create protocol and urge MLP to allow access to residents during post-storm events. The community don't have access up there and it's difficult to get a hold of anyone from MLP.

In closing, I trust the Commission will make the right decision as you have for Kahoma, Kaua'ula and Nā Wai 'Ehā as well as East Maui; Mahalo for your time.

PUBLIC TESTIMONY (CONT'D)

Mr. Kekai Keahi – I don't have much to say as the people of Honokōhau covered everything but some things I'd like to point out is that Honokōhau had 4,700 lo'i in that valley; that's how much that river could supply and we have the maps to show those lo'i. The decisions made by Maui Land & Pine to dewater that river, has caused a lot of those families who managed those lo'i to leave the valley. Today, the biggest land owners in the valley is MLP, how does that happen? All those lo'i that were owned by kuleana, majority is now owned by Maui Land & Pine. If you take away the water and remove the ability to sustain themselves, they have to leave as one of the testifiers mentioned it earlier.

Putting back the water is not going to repair that. We're looking at restoring lo'i but how you're going to repair the damages done by MLP acquiring almost the entire valley. What we're demanding is our right to go back and sustain ourselves through the ways the kupunas did it.

I'm with Kamalu o Kahālāwai, like Archie mentioned, Neil, you was there from the beginning with Kamehameha Schools, almost 15-years ago we're doing the same thing, fighting for these streams. It's not something short-coming, we've been here 15-years, since Kamehameha Schools and about Kahoma. When you give life a chance and we got the water back in Kahoma, and did not expect the things we saw when the water was released. We were looking at the water for loi and what we saw was 'o'opu coming back by itself. We transplanted 'ōpae and hīhīwai. I invite you guys to comeback to Kahoma where the stream been dead 100-years and go swim inside, now is full of 'o'opu. There's so much that we are managing people regarding harvesting it.

One last thing... “what did the ‘o‘opu say when he hit his head against a concrete wall?” He said “Dam!”. Aloha.

*(this concludes the testimony from Hui Na Mamo Aloha ‘Āina o Honokōhau)*

PUBLIC TESTIMONY (CONT'D)

Ms. Kanoelani Steward – *(sharing video testimony by the following kūpuna of Honokōhau Valley)*

Ms. Kainoa Wilson, Honokōhau Valley Resident – *(first shared her lineage)*. I lived here almost all my life and when we moved here, there were five (5) families in the valley and recently had a lot of people come home to the valley. Family that has roots here and transplants that want to live a simple life. I think we need to make sure they have sufficient water to live the life and become self-sufficient and self-sustain. I support the IIFS, Mahalo.

Mr. Job K. Cabato, Honokōhau Valley Resident – we struggle to farm. I live here over thirty-years (30). I came here mainly to learn Hawaiian slack-key. Farming is not easy because there's no water and we want to do the traditional kind, the wet land lo'i because we come from the area; but because the inconsistency of the water, it doesn't make sense; we're working hard for nothing. Those live up the valley always has water but it's low and it's hard to farm good taro. We actually can farm good taro if we have good flow of water and it's the main thing of taro farming, the flow of water coming to your patch consistently.

PUBLIC TESTIMONY (Video) (CONT'D)

Ms. Pi'imauna Aiwohi, Honokōhau Valley Resident – I'm a fifth generation taro farmer in Honokōhau Valley. When I first moved to the valley in the 80s I had twelve (12) kalo patches and currently am down to two (2) patches. Water has always been an issue for us because we don't have enough water coming through to successfully grow kalo. You need that constant cool water flow coming through your patches and we don't have that. I'm sure that has affected a lot of the people in the valley from the early 1900s of not having enough water, can't grow their taro and need to move out to make a living.

People in the valley are still trying to raise kalo and we need more water so I am in support of DHHL reservation of 2.0 mgd and establishing an instream flow standard and also rectifying the situation with Maui Land & Pine. There is no need for them to have all of their millions of gallons because they're not into agriculture anymore and all these problems can be rectified and you will be able to give Honokōhau Valley in the instream flow. I am hopeful and hoping the Water Commission can rectify this situation; thank you.

Ms. Moana Astronomo, 'Iao Valley Resident – Aloha. I'm here in support of the IIFS on the reserve for 2.0 mgd for DHHL in Māhinahina. Historically, Honokōhau Valley was one of the wettest valleys' in Maui. I'm here at my father's home where he is forced to become a dry land kalo farmer due to the lack of water. If he were to make our lo'i wetland, all the homes below

us, their lo'i patches would go dry, so he's forced to be a dryland farmer. Traditionally, this would be wetland kalo and that was taken from him and it should be returned back. E ola ka wai a kāne.

Ms. Kanoelani Steward, Kumu, Ke Kula Kai 'Aupuni O Lahaina – Aloha nui kākou. I wanted to mahalo nui all of the Commissioners and everyone involved for their time. As a current resident of Honokōhau Valley, I support the reservation of 2.0 mgd for DHHL as well as the amended instream flow standards set for Honokōhau but do have comments with enforcement and other concerns. Within the staff submittal, it states that MLP is required to meet the interim IFS 100% of the time, however it doesn't show how this would be enforced, all it says in writing is that "...staff shall enforce the provisions of the State Water Code should the see anything during the course of their fieldwork..." How can we ensure MLP will not be taking more than their need, which is 1.8 mgd?

MLP is a concern to me because as shown in the staff submittal and most recently mentioned in today's testimonies, MLP has still failed to intake their intake system since the 2019 water complaint. Another concern is listed on table 10 on page 25 of the submittal of April 20<sup>th</sup> that lists current actual and future estimated water use for various entities in the Kapalua Nā Pili region. Listed under future planned uses are Pūlelehua, Wailele Ridge, Māhana Estates, and Kapalua Mauka, which are needs of luxury resort areas that exists on Hawai'i real estate websites which maybe expanding. (*cited a State Supreme Court ruling statement "...and to assure that the waters of our land are put to reasonable and beneficial uses..."*) Therefore, how do these luxury estates benefit the public trust uses and the local community? I wanted to bring it up to show how concerned we are with the way our water and public trust resource is being used outside of the valley.

Additionally, I had the privilege to participate in stream biota surveys in 2019 under Maui DARs Skippy Hau when I was a marine fellow with Nature Conservancy. This past weekend we took pictures of 'ōpae and various 'o'opu and some pregnancies of the species were confirmed. However, after seeing the intake system works, a lot of water is still being diverted at diversion 770; and a good portion of water is being put back via taro gate. However, the water from taro gate back to Honokōhau Stream is water from the ditch and not flowing from the mountain source. Our native organisms can easily mistaken that ditch stream as a natural tributary, try to climb up and end up in Honokōhau ditch instead of in the stream. Taro Gate seems like a quick fix but I think the focus should be on the intake at diversion 770 which is what Ayron touched upon in today's presentation.

If we want to continue to gather from the stream and its sources, intake systems need to be prioritized and strict management needs to be implemented for all off-stream users to ensure the maintenance and protection of instream wildlife habitats and traditional customary Hawaiian rights as well the other beneficial instream uses continue to be protected. (*stated a portion of an 'Ōlelo Hawai'i newspaper article from 1893 that describes Honokōhau Valley and it's abundance of lo'i kalo and its importance to the land*).

Mahalo Commissioners and Commission staff for listening to our mana'o to prioritize the people of Honokōhau and supporting us in bringing this 'ōlelo to fruition. 'O ke kalo ka waiwai nui o Honokōhau, Mahalo.

PUBLIC TESTIMONY (Video) (CONT'D)

Ms. June Young Ka'aihue, Honokōhau Valley Resident – I am 83 and will be 84 soon. My dad is Sam Apo Young. He lived in Honokōhau Valley and farmed kalo with his family until the plantation took most of the water and that's why most moved out of the valley. I don't know how it made me feel and never thought it was that important as my choice of life was not living here which is sad because I love it now. I'm in support of the IIFS and return of water in Honokōhau and proud that my great-grand kids can farm in the same taro patches and they know that heritage; eventually there's not going to be any cause water is so important. Culture is also important and bring our kids up to know and live off the land, that's important to me.

Mr. Makana Kānekoa, Honokōhau Valley Resident – Aloha mai kākou. 'O Makana Kānekoa ko'u inoa. He keiki nohopapa wau no Honokōhau. He 'umikūmākolū o'u mau makahiki a hele au i ke kula o Lahaina. Kāko'o wau i ka IIFS no ka mea, i kēia mau lā, 'a'ole lawa ka wai no ka mahi kalo 'ana ma Honokōhau. No laila, 'a'ole lawa ka 'ai no nā 'ohana ma muli o ka lawelawe 'ia 'ana i ka wai e MLP. Minamina kēia ia'u no ka mea, ua hiki ko'u mau kūpuna i hala e hānai i nā 'ohana i ka 'ai kūpono, 'o ia ho'i ke kalo no ka hopo 'ole no kēia mau pilikia me ka wai. No laila, me ka leo 'oiai'o mai lawe a nunui i ka wai o Honokōhau. Pani ana wau me kēia 'ōlelo no'eau: Mānu'unu'u wale kini o Honokōhau. Mahalo. *ai no ka*

*(this concludes the video testimony)*

PUBLIC TESTIMONY (CONT'D)

Dr. Jonathan Likeke Scheuer, behalf of DHHL – Aloha mai kākou. Chair Case and Commissioners. Mahalo to the Commissioners and staff that worked hard on this issue particularly Kaleo, Dean and Ayron and especially thank the kua'āina of Honokōhau for their struggle in their steadfast to seek this for decades. It's hard to understate the gratitude from the Department of Hawaiian Homelands for the folks in Honokōhau supporting the reservation for DHHL. DHHL strongly supports both aspects of the staff's recommendation.

Within the Water Code, there's a law article from 2002 (*stated and referenced that written article in regards to DHHL water reservations*). We're grateful to the consistency the staff of this Commission in pursuing water reservations for DHHL and believe this decision is an attempt to balance the off-stream public trust needs of DHHL with the instream needs of Honokōhau Valley. We also believe the ability to use this water to extend and use waste-treated water is congruent with the 2014 Water Policy Plan and the Hawaiian Homes Commission, which seeks to balance its public trust needs with other public trust needs.

Again, we're asking you to support the recommendation and am here to answer any questions; Mahalo nui.

*(end of public testimony)*

## QUESTIONS/DISCUSSION

Commissioner Buck – (to Maui Land & Pine) asked if MLP can urge the new owner of the Kapalua Water Company to be an active and (hopefully) financial supporter of the West Maui

watershed partnership as it's the partnership providing the water for them and all the public trust uses as well.

Mr. Paul Subrata, Maui Land & Pineapple (MLP) – that's a good question. Since the purchase of KWC and the waste water company system, we've hired them as our operator for the ditch system as well. Tony Carrasco has significant experience in managing ditch systems and I can pose that to them as they being the owner of the system by Kā'anapali side as well-the Kā'anapali Water Company and should be fairly easy ask for them to participate and be an active participant in the West Maui watershed.

Commissioner Buck – I'd be happy to draft a letter for your review as you heard this is an important way to give back to the community as you've heard there's a lot of concerns from the community members so I look forward to your cooperation in making that request from us; thank you.

Mr. Subrata – and thank you for pointing that out as our PKW watershed partnerships has been working close making sure we protect the watershed. We spent a lot of time and resources to ensure that happens. The community concerns can be addressed by getting more people involved.

Commissioner Buck – I do want to recognize that MLP was one of the first private landowners to join the natural partnership program and one of the original West Maui watershed partnership.

Commissioner Hannahs – what's your position on the staff recommendation?

Mr. Gil Keith-Agaran, Counsel for MLP – as far as the reservation for DHHL, MLP is very supportive. The second part of the recommendation, MLP wants to be sure in the implementation the time period talking about, if some reason it exceeds the 4-months, that we'll be able to come-back to the Commission to discuss. The concern brought up with their consultant (Akinaka) is permitting delays if there's work to be done in the stream, so there cautious about meeting the September target date in the recommendation; but I believe MLP is able to comply with the recommendation.

Commissioner Hannahs – hearing the public testimony today, what's your reaction?

Mr. Keith-Agaran – I joined the meeting late, so I caught the tail-end but what I did hear reflects the history a lot of the communities had with the plantation history we have and the diversions that were in place. What were dealing with now is trying to live up to the values that embodied in the 1978 Constitution and creation of the Water Code so going forward, Maui Land & Pineapple would like to work better with the community to implement the IIFS, manage the watershed and entire ditch system.

Commissioner Hannahs – what is MLP prepared to do to strengthen these bonds with stakeholders? We can allocate a resource that's shared, but if it's to divided parties, it usually ends in conflicts that needs to be mediated.

Mr. Keith-Agaran – when the pandemic shut-down being able to travel and interaction, planned meetings with the community were put off including meeting with residents in the valley. As we move out of the pandemic and we can start to have meetings and more



interactions with residents, MLP and the new owners of the water system will need to reengage to resume that process; it's a discussion I've had with them.

Mr. Subrata – one item the community kept bringing up about the resort area during drought, low-flow conditions, understand that our priority has always been to make sure the County of Maui Department of Water Supply Treatment facility is first, the community farms and PKW is second, our resort fire hydrants is third, and everyone at the resort gets a “stern warning” to reduce irrigation water use on the golf course and luxury estates. In that priority, MLP is aware of the water diverted and we are making sure it's prioritized. We started community engagement but was halted during the pandemic. *(asked Tony Carrasco of Hawaii Water for comment)* Hopefully, the next time the Commission hears from the group, it will be more of us cooperating and less pointing fingers.

Commissioner Hannahs – as more stakeholders come into this community, what do you do to help them understand the community and the benefit of being there and important to understand why the public trust uses are so important those in the community?

Mr. Subrata – I don't have the answer but do know some of the future projects mentioned such as Pūlelehua, is an affordable housing project to meet the needs in West Maui. The expansion of Kapalua Mauka and Waialele Ridge was in place over a decade ago and proceeded carefully and made sure as we moved forward, to communicate with the greater community on the impact or lack thereof as it was taken into account decades ago.

Commissioner Hannahs – just want to say how impressed and appreciated we were by the community engagement today and of their testimonies and seeing young faces also engaged in this process.

Commissioner Katayama – under the items covered under the IIFS as presented, MLP will be the principal with the Hawaii Irrigation Company being the operator, is that correct?

Mr. Subrata – that's correct, MLP will continue to be the owner of the West Maui ditch and Hawai'i Water Service will be the operator.

Commissioner Katayama – any issues related to that, the CWRM staff will reach out to you?

Mr. Subrata – that's correct.

Commissioner Beamer – No laila, 'o ka mea mua, mamake no wau e mahalo aku i nā keiki. Na 'oukou e alaka'i mai iā kākou nei no nā hanauna hou. He wahi mahalo nui kēia i ka leo ko'iko'i, ka leo aloha, ka leo 'oiā'o me ka wiwo'ole o ke aloha o ka 'āina. Ua 'ike maka kākou. Ha'aheo nui kēia makua iā 'oukou pakahi a pau. I want to start by thanking all the community testimony and thanking the staff for working closely with them on this long standing difficult issue and working towards a resolution we could vote on.

A few things that stand out is that we need diligent enforcement on the decisions and recommendations we make. We need immediate and comprehensive upgrades to these gates as Ayron presented and from hearing the testimony. I agree with Mr. Keith Agaran these are long-standing issues and to hear about it from the community members who farm kalo in Honokōhau is difficult and something we need to remedy.

I'd like to ask for MLP if there's a direct point-of-contact for the community to reach out and talk to with these issues?

Mr. Subrata – referred to Mr. Tony Carrasco from Hawai'i Water Service.

Mr. Tony Carrasco, General Manager, Hawai'i Water Service – I have experience with ditch maintenance contracts and ownership of ditches this is why we feel that Hawai'i Water Service along with Maui Land & Pine would be a good partnership in our expertise and care for the 'āina, community we serve, and customer service; so moving forward we had the same concerns. Majority of our employees working on West Maui to serve these communities have been a Hawai'i resident for generations. They do understand the community's care for the water and conservation efforts. Earlier we talked about conservation and a lot is through education. Beyond that we also provide parts/materials they may need to conserve.

We're regulated by the Hawai'i Public Utility Commission so we get funding for these programs. With overall communication, this is my first meeting and listening to all of you and it was refreshing listening to the younger generation talk about the care of the land and water use. I will work with Mr. Subrata to put together an emergency contact list in case there's any community concerns.

We've also committed to the maintenance with MLP and keeping up with capital improvements to sustain as much supply as possible, use it wisely and educate our customers for future use. We hope not only for the ditch supply but also for the freshwater that comes from the wells, we're able to sustain that as well.

I'm here to answer questions, but also to support.

Commissioner Beamer – I think it's helpful to hear from MLP and you that the community will have a point-of-contact or direct access as it's in everyone's best interest. In terms of access and upgrades it's beneficial to have transparency I would recommend MLP to provide community access as they're living there, they're present. Is MLP going to provide access and upgrades to the system?

Mr. Subrata – In the past, the Honokōhau Valley residents do have access to the area of the ditch to make sure that flow of water are consistent. In a testimony stated some time ago they were able to go to the Taro Gate or contact someone at MLP to do the work and adjust the Taro Gate and make sure the water is flowing to the lo'i. Our hope is with Tony's help as the operator, is to have a system where there's a number the community can call and Tony and his team address it as there could be liability issues ever since the storm and pandemic, access trails have not been the best. It is easier to chopper into the intake for the repairs and cleanup. We are not oppose to the community coming in but are afraid of potential liability issues.

Mr. Keith-Agaran – with the storm, a number of challenges were created with the trails leading up to the different intakes. Part of the work Hawai'i Water needs to do is get access to some of the trails and particular diversions back to be more usable and will have to approach the liability issues with that and Paul can speak on behalf of the MLP Board as to

what they will allow regarding access by the community generally. Access of interest by the community is Taro Gate and to monitor and enforce the return of water into the stream that's set out in today's submittal is something we can work on to the extent it can be provided. We already have an outstanding request from CWRM staff to go up to take a look and we asked them to wait until Hawai'i Water was done with their annual maintenance and repairs in which they're starting on in the next month.

I understand your question but today we can't make that commitment on behalf of MLP on complete open access but it is something we can take back to the MLP Board.

Commissioner Beamer – agreed and commented on liability waivers and noted the Honokōhau community will be there for a very longtime and hope that MLP takes it into account and asked on the Taro Gate repairs.

Mr. Subrata – we looked at the main diversion 770 and realizing that a remote-controlled gate is not feasible. Ken Kawahara can provide an update on an alternate location that staff has been cooperating with him to identify.

Mr. Ken Kawahara, Akinaka & Associates – as Paul mentioned, I had the opportunity to go out with Ayron in the very beginning to diversion 770 and as mentioned previously, it's very remote to get up there, and so we're looking for an alternative downstream; Adit 15 (Taro Gate) and Adit 16 (referred to as McDonald's not to be confused with the dam). I heard from Ayron's presentation that having a way to put water back into the stream would be a fine-tuned adjustment and having a flow restrictor at diversion 770, although it wouldn't be easily adjustable, would be for the course adjustment, is something we've been looking at.

I believe when the original decision was made, it was related to adjustments only at diversion 770 (referred to as Aotaki Weir). I'm not sure if it takes formal action by the Commission to allow us to make adjustments at Adit 16 but it's something we're looking at and are discussing with CWRM staff. It's been challenging getting up there but looking at ways to utilize power and communication as there's no cell signal at both locations. It's challenging but I think easier to have something done at Adit 16.

With the permitting, it's been challenging on the Federal level, one of them being the Army Corps of Engineers so we need to work through them in making sure there's proper authorization.

Commissioner Beamer – thanked Ken and noted the challenges and implore the MLP Board to continue to work with the community in providing access and partnership. (called upon Ayron)

Dr. Strauch – reiterated and stressed on the conditions of the trail due to the recent storm events and noted that helicopter access is the only way in (to the diversion) at this point but noting that pedestrian access is undetermined for a future date as the trail is not passible even for experienced people; but to Adit 15 & 16 *might* be possible. We're also working MLP to provide real-time monitoring of their water use so we get more transparency and hope to communicate that better to the public moving forward.

Chair Case – commented if Ayron won't hike it, that's a statement of the condition of the trail. Thanked the Commissioners for the discussion and asked for a motion.

Commissioner Meyer – asked for an amendment; commented the surface water should be reduced from 2.0 mgd to 1.0 mgd with condition on DHHL blending that with an equal amount of R1 treated water from the County of Maui for irrigation and land application use. This amendment would maximize the public trust use of the Honokōhau Stream water, meet the policy and practice objectives of this Commission and also the County of Maui. More specifically, the County of Maui has a draft Water Use and Development Plan for West Maui on page 47, calls for R1 water to be blended with non-potable stream water for any new development by the County and DHHL. In 2016, the State Legislature passed Act 170 which amended the Water Code to include in the Hawai'i Water Plan utilization of reclaimed water for non-potable use in 100% of State and County facilities.

Also, in the State Water Plan Projects update, it is recommended the Commission continue to implement the water conservation plan and continue to seek non-potable source strategies like use of reclaimed water. Noting that blending and reuse of R1 water would facilitate the discontinuation of near shore injection of reclaimed water. If an exception in the future to CWRM or Dept. of Water Supply policy should be warranted regarding blending of R1 water with non-potable water for irrigation purposes, if an exception to be warranted, it's a simple matter of an application for a modification to that reuse requirement condition. It could be heard presumably at the next Commission meeting.

I think this would be consistent with State law and this Commission's policies and objectives and certainly the County of Maui's and will solve a number of problems. Thank you for listening to me, I realize this is a change, but I think its consistent with a lot of the testimony heard. I'd like to also thank all those who gave testimony today as it was well thought out and appreciated.

(reiterated) This would reduce the surface amount from 2.0-1.0 mgd and require it be 50-50 with R1 water.

Commissioner Hannahs – as the maker of the motion, I like the spirit of your recommended amendment. Asked on staff's reaction as the logic of the submittal states the reservation at 2.0 mgd with the commitment of the use for DHHL purposes.

Commissioner Meyer – noted the fact that DHHL has no other on-going active projects and it would be a while before the 2.0 mgd would be utilized and if only 1.0 mgd is used, it would the other 1.0 mgd available for other uses by various users.

*Chairperson Case asked for CWRM staff's comment*

Dr. Strauch – saving water for future use can't be done and this is not a management area and this decision is occurring on the reality of today. The infrastructure to get the R1 to DHHL is not completely there. A case can be made in the future when the infrastructure is invested in and we can revisit the source of the reservation; although the amount wouldn't change as they need 2.0 mgd; so it would be the source that will be blended with R1.

Deputy Manuel – Ayron is correct and the approach he's recommending is sound legally; from an implementation perspective is sound as well. The reservation request made by DHHL for the 2.0 mgd is for their full build-out. As referenced, it's not a management area

and we're not allocating water to any entities, we're just acting on their reservation request under Section 101 of the (Water) Code, not under the WMA or the allocation portions of the Code. We're not limiting MLP or Honokōhau residents in how much water they'll get. The action before you is for the reservation of water to DHHL and the establishment of the IFS.

I would suggest to take care of the DHHL's request pro-actively versus reactively trying to reserve that water at a later time.

Chair Case – asked the DHHL representative for comment

Dr. Scheuer – from a construction proposed motion point-of-view, I would note that because the Commission cannot reserve water for a non DHHL entity outside of a water management area, that ability to reserve water that you hold is under 101 of the Code under native Hawaiian rights. The functional effect of Commissioner Meyer's proposal would be to increase IIFS at phase-2, but he suggested not changing that so not sure where that water is going to go. The motion would leave water unallocated. DHHL certainly seeks to use reclaimed water but don't have legal access to it and cannot compel the County to provide it to us. If we have the reservation of 2.0 mgd and that would encourage them to work with DHHL and would hope the amount of chlorides in the reclaimed water can be reduced, DHHL would seek to have additional water returned to Honokōhau Valley for other public trust uses.

Chair Case – asked if the DHHL reservation of 2.0 mgd is anticipated as the full need or should R1 water become available, would DHHL seek to use for example up to 4.0 mgd in its blended state?

Dr. Scheuer – DHHL requested on the conservative side of what the water needs might be for this area. Also note, because DHHL issue leases for 99-years, our lessees who've settled on these lands where climate change and dry periods are increasing, irrigation water needs could also increase in the future.

Chair Case – could we include in this amendment or motion a notation that R1 water become available in reasonable quality and price that it needs to be a blend for irrigation purposes.

Dr. Scheuer – given the technical and structural uncertainty of availability of R1 at this time, and statement of concerns of enforcement perhaps an amendment that staff comes back and report to the Commission on the status of both the R1 availability as well as enforcement matters in setting of the IIFS might be a better way to address it and further action can be taken at that time.

Deputy Manuel – the Commission always has ability to amend reservations, it's a provision and task of the Commission to consistently evaluate alternatives that do come up when made available. It's something we could add as a technical amendment. For Commission's consideration, if we're going to obligate DHHL to be required to blend water, I caution the Commission that same policy should be made for all users in this region and not just DHHL because they're other non-public trust uses that were articulated in testimony like the resorts and other irrigation demands that could use R1 but are currently not. I just want to be clear that it should be a blanket policy statement and don't know if it should be directly placed

upon DHHL's reservation but would recommend it being a more general policy statement attached to this item.

Commissioner Buck – with respect to Commissioner Meyer, it doesn't sound right to do this at this point in time and hearing the testimonies, this is something we don't need to implement right now, there's other issues and this is phase-1. We can deal with this later on and is part of the adaptive management strategy we're using.

Commissioner Beamer – Mahalo Paul, I think its worthy of consideration but I'm not willing to entertain the amendment because of the wealth of testimonies we heard and we're hearing on this specific issue. I agree with our Deputy that if we were to require blending, we want to include all users in the region especially when the rights of DHHL are part of the public trust and need to recognize that these reservations are an important role for the Commission. Sounds like it could be addressed as a future update management strategy as this moves forward.

*Chairperson Case asked Commissioner Meyer for comment to the discussion on his amendment.*

Commissioner Meyer – the Commissioners will make their own decisions with respect to the amendment. I would suggest as it seems clear the County of Maui and the Commission maintains a policy for water reuse for non-potable purposes. This is a great opportunity to take a million gallons of that R1 water and use it productively. On proximity, it's very close and it could be pumped uphill to the additional reservoir as that reservoir is planned already. It would presumably lower costs for DHHL for irrigation water for non-potable water. More importantly, I'm always concerned especially in a water-short area when it comes to surface water, like West Maui, that water is not wasted. Here we are in a condition where non-potable water is available, it's currently being injected, and it can be productively used. Perhaps we should look at closely in avoiding this waste of clean water when the need can be met by blending?

Chair Case – asked on common area irrigation in a developed area, is that something that can use R1 water and are they using it?

Commissioner Meyer – as Ayron mentioned, the R1 does have a higher salt content and does need to be blended down with the usual blending about 50-50 mix. If it can be done and used for irrigation purposes, water can be reused easily and appropriately. There are limitations as it can't be used for washing fresh produce.

Chair Case – so it's possible to blend it one-to-one with the amount their getting now; but we don't know the practicalities of that. It seems your point is a very important one and is one that is in the plan and should apply to all users; I wonder if we might incorporate a statement reminding all users of water in this area that the Commission places a high priority on using R1 water to the extent feasible and we would be looking at that in future decisions with respect to water taken from this stream.

Commissioner Meyer – mentioned the Water Plan Project update recommendations in Chapter 10 noting the Commission should continue to implement the water conservation plans which includes water reuse and continue to seek non-potable source strategies to use

reclaimed water and if we're going to follow that directive, is something we need to consider in this case (*restated the reservoir proximity with regards to pumping and also noted the wasted water being injected*) If this plan didn't work out, DHHL could bring the matter up at the next Water Commission meeting as the record would be clear. Seems like this would do a lot of good should this amendment be applied.

Chair Case – What I'm hearing from the Commissioners is support for blending R1 water and non-potable water to the extent feasible but not applying that only to DHHL and not feeling like this is necessary the proceeding in which we implement a practical decision on it but maybe the proceeding in which we add a statement of policy to encourage that.

Commissioner Hannahs – I would not make that statement as an amendment to Item #1; I would leave the reservation in tact but can have a proposed action #5 – which will state: *“should blended R1 water become available for off-stream uses, the Commission will seek to optimize use of this source to reduce demand for water diverted from streams”*

Chair Case – asked Commissioner Meyer if R1 is available now but nobody is using it?

Commissioner Meyer – yes, it's being injected into a sub-surface and there's considerable community support for stopping that practice.

Dr. Strauch – approximately 4.5-4.9 mgd is currently available and at sea level. The County has recently purchased the Honokōwai reservoir at the 300-ft elevation and are rehabilitating the pumps and pipeline to get to that elevation. There are a number of reservoirs that are currently owned by Maui Land & Pine at the Honokōhau ditch elevation at approximately 700-ft.

To blend R1 with the non-potable water from the stream and make it available for all DHHL needs, would need infrastructure to get the water from the 300 to 700ft elevation. We are working directly with the County and Department of Environmental Management to put a strategy together to utilize this R1 resource to a great number of end users who currently don't have R1 available because of lack of infrastructure or because of the high chloride content. This is one step in a large process to get R1 available to the most users including DHHL.

Chair Case – one thought would be to say this is a intermittent process so any future considerations for adjustments to the IIFS, the Commission will carefully review the availability of R1 water as part of that adjustment. I'm trying to keep that issue in front of the Commission and recognize right now the R1 is available but not feasible to the extent the Commission's decision can help make it feasible. Adding more pressure on the Commission's side, we can incorporate that it's an active consideration point anytime this comes back to the Commission.

Commissioner Hannahs – agreed; and trying to craft the language that addresses Paul's valid concern and there was testimony today that people would support it.

*Chair Case asked Commissioner Hannahs to reiterate the motion adding “...and the Commission shall review the feasibility of R1 water in any future actions with respect to adjustments of the IIFS for this stream”.*

Commissioner Hannahs – agreed

Commissioner Beamer – agreed and added it should be explicit for all users

Commissioner Hannahs – noting it's a separate action and not part of the DHHL reservation

Commissioner Katayama – I would propose to move that as item #2 and renumber items #2 through #4.

Commissioner Hannahs – agreed

Commissioner Beamer – seconded

Commissioner Meyer – thanked the Commissioners for moving it forward as it's an important change for West Maui and wish we had a better timeline for DHHL needs on irrigation water.

Chair Case – asked for a refinement on the term R1 to instead be known as “recycled water”.

**MOTION: (HANNAHS/BEAMER)**

**To approve B-2 with added amendments.**

**UNANIMOUSLY APPROVED**

Chairperson Case thanked the Commissioners, staff and participants for a robust discussion and analysis on a big step forward.

Chairperson Case announced that Item B-6 will be taken before the other items.

RECESS: 12:00 PM

RECONVENE: 12:15 PM

**051821 03:15:38**

**B. ACTION ITEMS (CONT'D)**

**6. Request to Enter Into a Contract for Professional Services for Expanding the Collection of Climate Data by Implementing the Pilot Phase of the Hawai'i Mesonet Network of Telemetered Climate Stations**

PRESENTATION GIVEN BY: Dr. Ayron Strauch, CWRM Stream Protection & Management Branch

Dr. Strauch presented a PowerPoint presentation and explained in depth on the studies conducted by the U.S. Geological Survey (USGS).

In January 2021, the USGS presented to the Commission their scientific and investigations report that identifies the water resource management monitoring needs in the State of



Hawai'i. The report was broken into rainfall, streamflow and groundwater monitoring. In the rainfall monitoring network, they identified locations for additional monitoring stations necessary to effectively protect and manage the water resources as well as understand how changes in climate will affect groundwater recharge and surface water runoff.

This is proposed pilot phase which will provide for real-time monitoring and will help develop and implement standard protocols, installation procedures, quality control/quality assurance, and data availability for real-time climate monitoring in the State.

Dr. Strauch further clarified the stations by each of the main islands. This is a two-year study that's proposed to fund staff at UH and the infrastructure to implement four (4) new climate stations. We're suggesting that additional climate monitoring stations be placed on the outer-islands because O'ahu already has decent coverage of real-time monitoring stations.

## QUESTIONS

Commissioner Beamer – (to Tom) could you give us a snapshot of what things are looking like with using the different models as climate does have major implications upon the Water Commission especially as we're seeing more intense periods of wet and dry.

Mr. Tom Giambelluca, Hawai'i Mesonet – what we know about the future is limited for many reasons. What we're trying to improve are our future projections of what the changes would be. The reason for this proposal underscores the fact we don't adequately know what's going on now which tell us the uncertainty of the future. There is a big range of rainfall projections from the different downscaling as available so far.

I do think it's reasonable to expect it to be a bit wetter in the Windward and high rainfall areas and possibly significantly drier in the dry areas; but it is the most likely for the mean values.

The implications for water management are water supply might be affected, and demand would increase. As for rainfall intensity, the April 2018 event that occurred on the Northern part of Kaua'i set a new United States 24-hour daily rainfall record of nearly 50-inches. In August that same year, were also record rainfalls on Kaua'i but also on the Big Island over the period of 4-days.

It's consistent with the oceans and climate warming which causes the atmosphere to hold a lot more water which will produce more intense periods as we're seeing; sometimes we'll get a double whammy in some places seeing more drought and more floods which is a fairly likely scenario for the coming decades.

Commissioner Buck – (referenced submittal items B-4 & B-5 research) and asked how are we utilizing our research to support our management needs and if there's opportunity to draw in other partners? Also asked Tom in regarding the 50 rain gages project attempted before.

Mr. Giambelluca – noted on the 50 rain gages project and explained on the funding of the various monitoring needs with the majority of it around water and the variables proposing to measure here are specifically selected so we can estimate evapotranspiration and measure

rainfall. With that, you can do the water balance, estimate recharge and contributions to surface water flows and other things.

The other thing that changed along the way is we want everything to be telemetered with devices that transmit direct data which serves many needs using real-time data for example: flooding, irrigation, fire management, etc. It also helps us to identify quickly when something is broken.

Part of the higher-cost of this station has to do with the strategy to engage partners for all stations; especially for stations in remote areas and because of that, we needed to design stations that's a bit pricier but makes it more robust and fits our plan.

Commissioner Hannahs – thanked Ayron and Tom for the proposal and asked if we included Department of Agriculture to partner with?

Dr. Strauch – to the extend we're trying to partner with DOA to get any data, yes. Largely our request to partner has been met with non-responses. Are we working with DOA to provide us space on land they own to put in a rainfall station? - they have haven't been very receptive to monitoring their own water needs.

Deputy Manuel – going off of Commissioner Buck's mention is the frame of our approaches and why we're collecting this data and why its important. We've been trying to regroup from 2020 with the pandemic, budget uncertainty amongst other things as budget often drives these partnerships and wanted to use the funds we had available at the end of this fiscal year to start the momentum.

The goal here similar working with Tom is to frame opportunities for us to partner with agencies and with community. There's a desire by a lot of communities to potentially fund or co-fund some of these stations because they understand the importance of having that data. We've had discussions on how to approach that and think about the likely funding partners like DHHL, OHA among others that expressed interest in having water and climate data. This is the first step in that process and having Tom as a partner is having the right-hand guy there and hopefully can create that momentum having partnerships with those that will benefit from the data as well. We want to work collaboratively and smarter, it takes some fine tuning but we're working on it.

Commissioner Hannahs – is DOA on that list?

Deputy Manuel – yes, DOA & ADC are on the list. We presented last night at the Wahiawa Neighborhood Board about IIFS and streams that could potentially affect ADC and the communities impacted by the North Shore flood. I've been working with the Deputy there to try and increase our agency collaboration.

Commissioner Katayama – at the end of the 2-year funding, what percentage of the state-wide build out would this cover and what are you looking at for full build-out of this program?

Deputy Manuel – we're looking at round numbers of what that would look like at full build-out and been strategizing to prioritize and put a plan together and been meeting monthly with

our team so it's something we're working on. (referred to Tom relating to the Mesonet program)

Mr. Giambelluca – on the climate side which includes rainfall, I've priced it out for 100 stations and identified 153 sites that would contribute to improving the network which is a good way to do it as we anticipate permitting delays. In selecting those sites, we've already taken into account logistical issues like access. (*stated the pricing*). We have been working on being thoughtful on this for quite a few years and one of the issues with a network like this is making a big investment then find out can't go out there and can't maintain it, then it becomes a total waste; which is the last thing I want to happen.

What's important is that we have a sustainability plan that helps us pay for the maintenance of the stations but also the data management. On the data management side we've developed a system which we're going to launch in September called the Hawai'i Climate Data Portal and I am anxious to have that presented to you in the near future.

On sustainability, there is a national Mesonet program that is part of NOAA that will pay for the data which pays up to \$260/month per station for the full station data that meets its' standards and reliable. If we can do that, it would pay for almost half of the total cost of maintaining the stations and the data management. From that point, we'll go to partners like you and others to get a plan and keep it in operation.

Commissioner Katayama – the current funding for the next two years, is that solely from CWRM or are other partners supplementing in addition to that?

Deputy Manuel – it's solely CWRM funded.

Commissioner Katayama – someone needed to take the lead; I think the challenge is finding the budget to sustain it.

Dr. Strauch – reiterated (which Tom mentioned) that the cyber infrastructure has already been developed to host the data previously funded by the 'Ike Wai NSF grant. We're starting from a point where we can trigger a larger push to build out the Mesonet.

Mr. Giambelluca – added briefly that several networks are operating several networks that have been built out overtime. We have the Hale system which is on Haleakala which I installed in June of 1988 which produces a lot of data and is our gold standard. (*described some of the network stations which has been in place for decades*). The Honolulu Board of Water Supply has also funded a project starting this month to establish stations in Nu'uuanu Valley for reservoir data and I expect other partners to step-up (in partnerships) as well.

**MOTION: (BUCK/BEAMER)**  
**To approve B-2 as submitted.**  
**UNANIMOUSLY APPROVED**

051821 03:45:23

**B. ACTION ITEMS (CONT'D)**

### **3. Approval of the County of Maui Department of Water Supply's Project Description to Update the Water Use and Development Plan for the Island of Moloka'i**

PRESENTATION GIVEN BY: Mr. Jeremy Kimura, CWRM Planning Branch

Mr. Kimura introduced the submittal item and stated the summary of the request and shared a presentation highlighting the State Water Code, the Hawai'i Water Plan, and the elements of the Water Use and Development Plan which incorporates Regional plans for future water developments, future land uses and related water needs, identify water resource issues, with stakeholder and public involvement strategy.

The presentation also touched on the five additional recommended elements for inclusion in the Water Use and Development Plan and noting the staff's recommendations for this submittal item.

#### **QUESTIONS**

Commissioner Beamer – thanked Jeremy for the update and asked in regards to the community outreach.

Mr. Kimura – there's no requirement but it's strongly recommended in the Framework guidance that they have adequate vetting of water resource issues as well as the impacts the source development strategies are going to have with the community before it comes up. The water use and development plan should also incorporate inclusion of different stakeholder strategies that meet future demands. We do ask for the community outreach strategy to be outlined in the project description.

Commissioner Beamer – agreed that it sounds advantageous as the Commission doesn't want to approve a plan the community does not approve of.

Commissioner Buck – asked if anything changed since last hearing the proposal last month.

Mr. Kimura noted that the Commissioner's comments are reflected in the recommended five items from the submittal and that the proposal hasn't changed. The recommendations are listed in the submittal for the record to be underscored and addressed; so instead of having the County Water Department change their proposal, we're including it in the recommendation.

*Chairperson Case called upon the Maui County representative and their consultant for their comment and asked if there were any changes to the proposal.*

Ms. Eva Blumenstein, County of Maui Department of Water Supply – appreciated the comments and feedback from staff and appreciated the recommendations incorporated into the development of the plan and don't have a problem with it. The item added that we did not anticipate was the authorized planned use but we're already working on that so it's not a problem.

Mr. Bruce Tsuchida, Townscape, Inc. – in regards to working with community interests and groups, that is the major element of the planning approach that we always incorporate. The scope we submitted to the Maui DWS emphasizes the importance of interaction and communication with stakeholders in the Moloka‘i community as they are the experts in regards to the systems and water supply on Moloka‘i; so they will be an important part of the planning process and we’ll do everything we can to be sure they are partners in this process.

#### PUBLIC TESTIMONY

Mr. Mahesh Cleveland, EarthJustice – Aloha Chair Case and Commissioners. EarthJustice does represent a group from Moloka‘i in the pending petition for the interim instream flow standards in central Moloka‘i streams with the companion waste complaint and petition for abandonment. I’ve been working closely with the Moloka‘i community on water issues for a few years and do want to acknowledge the work that DWS and Townscape have put in and I’ve been able to join in on in-depth discussion with Bruce and his staff and Eva. We’re looking forward to continuing that level of open dialogue and appreciate that. As Bruce said, the folks on Moloka‘i know their island and water systems really well.

All of Moloka‘i major water systems have been controversial, mismanaged or loosely regulated for a longtime. A lot of the major water sources on Moloka‘i is the subject of a water management proceeding; wells without permits, streams without IFS and the Moloka‘i Irrigation System has not provided the type of data its required to. Many communities have been engaged in this issue for decades. Many of them passed away without seeing a resolution to these issues they fought for years; in competition with big or absentee landowners as Moloka‘i Ranch.

With an opportunity to update the Island Water Use Plan and speaking with the County and consultant, the community is keen on a plan to consider its uses with conservation methods while paying attention to the front-end of water resource management. In our written testimony I laid out suggested language to add to the decision today to focus on the water coming down onto the land rather than the water sloth-off into the ocean or absorbed into the land. It’s well known that the southern reefs of the island are a pae‘aina. A lot of folks depend on it for daily sustenance. It’s also known that the storm runoff caused by the lack of ground cover in West and Central Moloka‘i is a major threat to the health of the reefs.

What the community and we’d like to see is that these front-end considerations are taken into account in the plan which is consistent with the State water planning statute of the Code looking at recharge, reefs and various ways of protecting resources on the island. There’s no question that groundwater and near-shore marine sources are inter-connected; and no question that lack of ground cover affected the islands ability to hold water that falls down and therefore, affects the islands ability to recharge its own aquifer.

Whether its reforestation efforts, something is needed to help slow the water down from running off the island and carrying all the sediments that blanket the reef, not only will it protect the near-shore resources but help promote recharge the aquifer. We want to see the Commission connect the dots of the front and back end and to have the Water Use and Development Plan Update incorporate those concepts. The actions we’re proposing are loosely based on the conditions that DHHL suggested for their own water use permit. A lot of our clients and residents are DHHL homesteaders and it makes sense to take a holistic

approach to mitigate runoff and promote recharge in addition to planning for future uses, Mahalo.

## QUESTIONS

Commissioner Beamer – is this something you see as an update in the process or explicitly called out?

Mr. Cleveland – what we'd like to see is something specific included in the scope of work that this Commission approves for the plan update. To make it clear, that the Commission would like DWS and Townscape to evaluate these as future proofing the plan. *(reiterated of reforestation or other preventative solution to slow down water runoff and promote other mitigative measures)*

Commissioner Buck – asked on the community understanding of the relationship between ungulates, watershed and reef protection as ungulate removal was a controversial issue on Moloka'i and wondering if there were community support for those type of aggressive action?

Mr. Cleveland – not only the ungulate numbers have largely increased but they are now starting to get sickly and listless. The community does depend on the ability to hunt the deer as a food resource but there's a lot of willingness to look at alternatives. It comes down to managing the destruction of the near shore. The ungulates are definitely an issue. The ranch is diverting a lot of water and don't see them using it to grow any new trees, but sitting in reservoirs.

*Chairperson Case added it's deer, goats and pigs*

Commissioner Hannahs – thanked Mahesh for his testimony and asked Bruce regarding the concerns (Mahesh) just raised and where are they addressed in the eight deliverables on page 9 of 13 in your report and did you contemplate addressing this?

Mr. Tsuchida – the deliverables are broadly described; in terms of content, I understand Mahesh and other ideas about including watershed management programs in the plan. We can include conceptual level descriptions of potential projects, the difficulty is that the DWS does not have the authority to implement those kinds of projects, if any entity, it is the Department of Land and Natural Resources that has the mandate and personnel to plan and implement watershed management programs. Plans we're doing with the BWS are called Watershed Management Plans but even there, BWS is constrained as they don't have the land ownership or authority to implement major management programs. We can do a conceptual plan but the other scope is something this plan cannot address.

Commissioner Hannahs – we don't expect this plan to reshuffle or delegate authority but know it's going to come up and is important to document and establish a nexus of what's available to use and how it effects future development plans with what we conserve. If we don't conserve that resource with better land management, we'll have less resource to allocate and less development potential and hinder traditional and customary practice.

Chair Case – what we’re saying is we recognize the issue that Mahesh has brought up and there are a lot of arenas in which we address it and adding something to this plan may not be the right way to tackle it but, recognizing it as an issue relevant to the Water Development Plan.

Commissioner Hannahs – they’ll be more consumers of this information than just BWS

Chair Case – noted we already have extensive watershed management plans in place and what we’re looking for is not a duplication of that effort but an integration of that concept.

Mr. Tsuchida – understood and agreed with the discussion.

### PUBLIC TESTIMONY

Mr. Walter Ritte, Ho‘olehua Homesteader – Mahalo Commissioners and thank you for this opportunity. I was listening all day and what a day today was. Lots of working with communities and solving problems without confrontation; not like the good ‘ol days...

Talking about it earlier today on surface waters and the need to turn surface waters into food which went really well. What were talking here on Moloka‘i is ground water and how it affects our food which is important for us here.

There’s people here in our limited groundwater sources. We got DHHL, the County and Moloka‘i Ranch all with straws in this one glass. It’s worrisome as that glass also feeds the people and their food at the reefs. I think it’s important for each island to be understood as how they’re surviving. Moloka‘i is unique as the majority of the population are Hawaiians. We have two economies, our cash and our subsistence economy. The State’s subsistence plan that we put together identifies that subsistence economy. Our State Constitution, Article 12, Section 7, allows us access rights to make sure that economy is doing well. That economy is bolstered by the ability of the groundwater to feed our reefs and fishponds. Behind me, I’m broadcasting now from Keawanui Fishpond and the people behind me are the workers at the fishpond.

We know that without the muliwai, the connection of the salt and freshwater raising fish in the pond will not happen. It’s important to understand the groundwater is giving water to drink and also giving us our food. What worried about with this plan is that not enough direction is given towards making sure that cup that everybody’s straw is in, gets recharged. We’re okay with taking some of the water out but want to make sure that future generations are going to have that same amount of water. We don’t know how much water is in that cup. So those that’s taking the water out, also have an obligation to recharge that cup.

We want some kind of wording in that plan and wanted the Commissioners to help us find that wording, to make it an obligation of all the people that are coming to you to take water like DHHL, the County and Moloka‘i Ranch that there’s recharge and mitigation efforts so that future generations have a full cup.

We have a lot of ideas of how that can be done and want to be sure the government give us an opportunity to present those ideas and also come up with a plan for recharging the groundwater to sustain us on Moloka‘i.

PUBLIC TESTIMONY (CONT'D)

Ms. Keani Rawlins-Fernandez, Maui County Council – Aloha Chair Case and members of the Commission. Mahalo for your service to our community and mahalo to all those that testified before me. I wasn't planning to testify, but after hearing from our community, I felt compelled and also wanted to answer some of the Commissioners questions that was asked of Mr. Cleveland.

I want to express how happy I am that Townscape received the contract to update our Water Use and Development Plan. I have full faith they'll do a good job in meeting everyone in the community. I've already met with them and know they have the integrity to ensure a well thought through, vetted and inclusive updated plan.

I want to share an idea I've been working on similar to carbon neutrality; I dubbed it water use neutrality which is what Mr. Ritte was speaking to, the obligation to recharge. Moloka'i has a legacy of 'aina momona which our kupuna practiced – in creating abundance for future generations. In the system we have currently, doesn't build abundance and is something I fully support we do.

In creating a water use neutrality, some ideas was that our County Department of Water Supply provide county funded grants through the enterprise fund to organizations that use or conduct watershed protection and restoration, and comes out of water rates only; not from general funds which is from property taxes; so not everyone pays into the enterprise fund. If (users) are on a private system, they're not contributing to grants that go to organizations that do this important work of restoring our watersheds like planting trees and preventing the ungulates from eating our native forests.

In response to Commissioner Buck's question on ungulates, the County has been investing in the control of our deer population as well as the Nature Conservancy has been doing a lot of fencing in our watershed. I've put into our County budget, funding for a specialist that will help with the deer management for our next fiscal year.

As mentioned, our County department provides these watershed grants and if in this WUDP it can incorporate ideas on how to achieve water use neutrality, creating these policies in which I'm working on at the County level it would benefit all.

Mahalo Commissioner Hannahs for your comments. I agree to not institute and not put into the system a requirement to recharge to ensure that our aquifer is healthy, would be irreparably injurious to our traditional and customary practices. While past WUDP may have not incorporated a component like this, I'm in full support of creating a new precedence so that moving forward, other islands incorporate it as this is a critical component, one that has been overlooked for too long. Mahalo for this opportunity to testify.

QUESTIONS/COMMENTS

Commissioner Beamer – this is a great opportunity we have the community show up and it's a chance for us to get ahead of them informing us what the pressing issues are in their community in regards to water. They know integrated resource management tying in the



watersheds, runoff and recharge, and groundwater dependent ecosystems are all coming to the forefront, issues we're addressing island-by-island.

I'm really excited by this opportunity Bruce, for you to do this integrated plan and to reach out and create a new paradigm. Commissioner Hannahs comments are spot on that the Maui Water Board isn't going to be the only user of this plan. I want to thank the community for their testimony so we as a Commission can avoid an issue years later where the community is not in support of a plan. I'm wondering should we consider an amendment to the staff's recommendation to include these issues?

Commissioner Katayama – staff recommended five elements to the plan, and I think all of those elements addressed what we've talked about, and the public testimony has mentioned. How would you need to revise your project submission to flush out some of these and be more specific than how you integrate or address these elements?

Ms. Blumenstein – I think the project description does elaborate how the public process will identify eight planning objectives and those are the basis for water resource strategies and purely this plan will be more water management protection and water development focused as it is Moloka'i and is very different from Honolulu or Maui.

I don't know if the project description should impose or define those strategies as it is proposed strategies on how to mitigate impact on GDE. The plan will need to integrate that information, but those planning objectives and strategies should be defined by the broader community through the process which is outlined in the plan.

Commissioner Katayama – referred to Act 170 and how will that be addressed? (*stated parts of Act 170*)

Ms. Blumenstein – it will materialize through because we are at the beginning of the community engagement process and those planning objectives have not been flushed out or not specified in detail in the project description and those objectives will inform the strategies that will include maximizing alternative resources that comply with the reclaim guidance by 2045 to include County and State facilities; however we're not defining those at this point.

Commissioner Beamer – it's helpful and have a motion to consider with a small amendment that will incorporate that if other Commissioners are willing?

Commissioner Katayama – (to Jeremy) if we were to adopt the recommendation, how would you monitor that they're being sufficiently addressed during the development of the plan over the next 30-40 months?

Mr. Kimura – one of the requirements of the framework is periodic updates to the Commission so we'll be meeting regularly with the Maui water department and Townscape and referring back to the documents and going back to the recommendation whatever that may be of this meeting. that would be our check as we're walking through this process with them. Obviously when the draft comes to us, we wouldn't recommend it for approval until the recommended items adopted today in the project description are met.

Commissioner Katayama – yes, it's still a ways away.

Mr. Kimura – as Bruce mentioned, the process is a voyage of discovery as he'd like to say; so things may happen and probably other water resource issues will come up, which is accommodated for in their project description.

Mr. Neal Fujii, CWRM Planning Branch – I appreciate all the testimony and comments regarding groundwater dependent ecosystems and talking about protecting the watershed. I wanted to remind the Commissioners and everyone that some of the proposals are getting outside the actual scope of the Water Use and Development Plan and as Chair mentioned, it's almost getting into the realm of watershed management. This conversation is going towards expanding the scope of the WUDP which is valid concerns but more appropriately addressed through watershed management plans or other types of plans, projects, or programs.

Right now, the scope and project description meets all of the Water Code, framework and Admin rules.

*Chairperson Case mentioned that Townscape confirmed they'll pay attention to those issues and cross-reference those without duplicating efforts.*

Deputy Manuel – I think this conversation is great and would encourage to shift this conversation to item C-1 which is talking about the framework of the Hawai'i Water Plan Update and maybe a great opportunity to add the components that Councilmember Rawlins-Fernandez and Mr. Ritte recommended which could frame how we update all of these components of the HWP so thinking that this conversation could be continued in that item.

#### PUBLIC TESTIMONY (CONT'D)

Dr. Jonathan Likeke Scheuer, behalf of Department of Hawaiian Homelands – Aloha. I'm here on behalf of DHHL to answer any questions as they are a water provider as well as a significant stakeholder. I would say that the framework for updating the Water Use and Development Plan is like saying here's the minimum we need to hit and what the community is saying on this island is we want to go bigger. We want our plan to guide the Commission when you consider water use permits, SMA permits or whether County or others granting watershed protecting – here's what the community has gathered and said through this vehicle is really what we want to see done on this side. The proposal suggests it's going to satisfy Ka Pa'akai and I believe so but Ka Pa'akai was done in a regulatory context. On Moloka'i it's not about harming cultural practices but about enhancing, increasing and expanding the practices that this community desires for their subsistence economy; Mahalo.

#### QUESTIONS/COMMENTS

Commissioner Hannahs – I want to thank the community for their participation especially the youth that surrounded Mr. Ritte. It's awesome that they're interested and engaged in this process. Referring back to Mr. Fujii's notation, with concerns we have approaching these multiple plans in an overly segmented and linear way, I think are dynamic and one affects the other.

As we develop this plan, we don't want to expand the scope of work that Bruce undertakes; but what he'll encounter is a holistic feedback which he'll need to take and make sure the authors of the other plans know this feedback to ensure they get addressed.

I appreciate Walter for his comment which I never thought of it that way - just as we have looked at surface waters and protecting the public trust uses instream, including kalo production, groundwater also enables the life of fishponds and near shore environments. I appreciate Walter bringing it to our attention.

Chair Case – it seems everyone's on board with the connectivity and the importance of these broader issues in the context of this planning and asked for a motion.

Commissioner Beamer – noted on more guidance and suggested to also add amended language upon after hearing from the community.

Motioned to approve the staff's recommendation with an amendment adding *"the plan shall propose specific mitigative actions to help to ensure Moloka'i near-shore environment"*

*Commissioner Hannahs seconded the motion.*

## DISCUSSION

Chair Case wanted clarification on the amendment as it's fairly specific and suggested to add instead *"the plan will cross-reference other efforts to mitigate negative impacts on the near-shore environment"*

Chair Case noted she doesn't want this to be duplicative of other plans but clearly everyone wants the concepts to be incorporated and recognized and part of water use and development is watershed management.

Commissioner Buck noted the current deliverables are broad but felt confident the planners will hear loud and clear from the Moloka'i community on issues they care about and an update on the progress is in the future and are happy to support this as is as the minutes will reflect the discussion.

Chair Case recognized this important issue the community has raised.

Commissioner Buck noted the amendment language to state *"the planning process will acknowledge and attempt to integrate the wide-range of watershed management it choose as effects of groundwater water on the island of Moloka'i"*

Chair Case added *"and surface water"*

Commissioner Beamer asked Commissioner Buck to reiterate the amendment (language) once again for the record.

Commissioner Buck replied *"the plan will acknowledge and attempt to establish a network with a wide-range of watershed management, groundwater and surface water issues on the island (of Moloka'i)"*

Commissioner Katayama noted the staff recommendation in Item #4 is in that same (language) genre.

Chair Case noted to add the amended language to Item #4.

**MOTION: (BEAMER/HANNAHS)**

**To approve B-3 as submitted with amendment.**

**UNANIMOUSLY APPROVED**

RECESS: 1:48 PM

RECONVENE 1:59 PM

*051821 04:55:23*

**B. ACTION ITEMS (CONT'D)**

**4. Request and Delegation of Authority to Chairperson to Enter into a Joint Funding Agreement with U.S. Geological Survey to Conduct An Analysis of the Effects of Groundwater Withdrawals on Streamflow, Waihe'e and Kahalu'u Streams, Kahalu'u Hydrologic Unit, O'ahu**

PRESENTATION GIVEN BY: Dr. Ayron Strauch, CWRM Stream Protection & Management Branch

Dr. Strauch stated the summary of request and noted to better understand the effects of groundwater withdrawal from various well sources on streamflow, Commission staff have worked with the Honolulu Board of Water Supply (HBWS) and the USGS to fund concurrent groundwater modeling and streamflow analysis studies.

The HBWS is funding a study of the He'eia hydrologic unit, with surface water and groundwater historic data analysis, fieldwork, and modeling. The Commission, USGS, and HBWS are interested in understanding the relationship between development tunnel withdrawal and streamflow in Ha'ikū, Ioleka'a, Kahalu'u, or Waihe'e streams, the magnitude of this relationship, and the effect of various management scenarios (pumping regimes) on streamflow. This JFA between the Commission and USGS will fund the first phase of a similar study for the Kahalu'u hydrologic unit: focusing on Waihe'e and Kahalu'u streams.

Dr. Strauch stated the objectives of the study and noted this is a Phase-1 of a two-phased approach with the understanding that the results of Phase-1 might influence how we move forward with Phase-2 which will be implemented in a future funding agreement. The funding sources were noted and a map of the Kahalu'u hydrologic unit was shared noting the existing USGS gaging station, with the nearby wells and tunnels shown within the region.

**QUESTIONS**

Commissioner Buck – asked if this will hold up determination for the IFS for Waihe‘e Stream?

Dr. Strauch – we have not started work on Waihe‘e Stream we started work on He‘eia Stream.

Commissioner Beamer – reiterated Commissioner Buck’s question as Waihe‘e Stream will come forth to the Commission in the future.

Dr. Strauch – we’re looking at an interim solution in He‘eia as well as a larger scale process in setting IIFS for the whole region which this research supports and not necessarily holdup the interim solution.

Commissioner Beamer – expresses support as its important to look at groundwater withdrawal interaction with streams.

Deputy Manuel – we’ve met since January when we presented the draft IFS recommendation with the Board and community to look at both short and long-term strategies on He‘eia; it’s not relevant to this item but connected to and we plan to bring something back to the Commission as soon as possible relating to He‘eia.

*Chairperson Case asked for a motion.*

**MOTION: (HANNAHS/BEAMER)**  
**To approve B-4 as submitted.**  
**UNANIMOUSLY APPROVED**

*051821 05:01:30*

**B. ACTION ITEMS (CONT'D)**

**5. Request and Delegation of Authority to Chairperson to Enter into a Joint Funding Agreement with U.S. Geological Survey for the Continuation of Low-Flow Monitoring Stations on Maui, Moloka‘i, and Hawai‘i as Part of the Statewide Monitoring Needs Program**

PRESENTATION GIVEN BY: Dr. Ayron Strauch, CWRM Stream Protection & Management Branch

Dr. Strauch stated the summary of request and presented a PowerPoint presentation highlighting that the study presented to the Commission in January (2021) identified locations where additional low-flow or continuous monitoring of natural streamflow is necessary to both understand the consequences of the changing climate on surface water availability and also as index stations for setting interim instream flow standards in the near future; noting at least (12) stations will be discontinued at the end of this federal fiscal year.

In the near future in setting interim instream flow standards, with the help of USGS, a subset of the (low-flow) stations were selected to continue for another year in hopes of converting

them to *long-term real-time* monitoring stations. The Water Commission is already monitoring low-flow conditions utilizing various monitoring stations throughout the main islands (*maps of the main islands were shown noting the various location areas of the low-flow monitoring stations*).

Moving forward, a number of the low-flow stations will be cost-shared and CWRM are looking at other funding partners for other locations throughout the State as well.

## QUESTIONS

None

Commissioner Buck moved to approve the item.

## **MOTION: (BUCK/BEAMER)**

**To approve B-5 as submitted.**

**UNANIMOUSLY APPROVED**

*Commissioner Buck asked Deputy Manuel on the impact of unresolved issues on Moloka'i in relation to approving the many agenda items referencing Moloka'i in regards to research studies.*

*Deputy Manuel answered in forecasting and based on the data we do have and the latest model produced by USGS on groundwater impacts, we'll be able to address some of the issues. There is a current waste complaint and petition for IFS from EarthJustice and we're bringing those to brief the Commission as an update for discussion and guidance to get items moving forward.*

**051821 05:16:10**

## **B. ACTION ITEMS (CONT'D)**

### **7. Adoption of the State Water Projects Plan Update**

PRESENTATION GIVEN BY: Mr. Nicholas Ing, CWRM Planning Branch

Mr. Ing presented a PowerPoint presentation highlighting the Plans objectives. Holistically, the SWPP is part of a bigger plan known as the Hawai'i Water Plan (HWP). The SWPP was initially adopted in 1990. The first update of the SWPP occurred in 2003, providing statewide water demand projections out to year 2020. Noting that DHHL possesses one of the largest areas of land for all State agencies and has special protection and priority in the State Water Code (SWC).

A table graph highlighting the 2034 cumulative and water development strategy of the potable and non-potable water demands for the main islands was shown. DHHL future projects and demands were noted for each island.

The staff recommendations were stated.

## QUESTIONS

Commissioner Buck – asked on the recommendations that it’s not “approving” anything but recognizing they’ve submitted this as a “wish-list”

Mr. Ing – their projected demands (referred to DLNR Engineering or Fukunaga Engineers for comment)

Commissioner Buck – reiterated comment

Chair Case – I asked for that last part in the recommendation because I asked a similar question of “what do we mean by approving this?” what we’re trying to do is make sure all the “parts” are talking to each other so we incorporate that into the plan to recognize the proposals. Each of those is going through individual review by us and other agencies

Commissioner Buck – in reality we’re just acknowledging we have received this Water Plan as part of the State Water Code.

Mr. Fujii – it is a list of proposed state projects but the purpose of the SWPP is to make sure we incorporate all of the future potential demands into the Water Use and Development Plans and the County and to ensure for future uses we can plan ahead and meet the demands. This will also help inform the Commission’s issuance of permits and other State agencies will also incorporate this SWPP when they need water to ensure coordinated development between agencies.

The plan is fairly detailed in how the water is going to be made available and whom might provide the water and if the water is not available, what are the options? This is also a tool for DHHL to reserve water in the future so it’s an important document.

Commissioner Buck – stated he understands and is in support

Commissioner Beamer – asked on the groundwater dependent ecosystems

Deputy Manuel – it’s upcoming on Item C-1

**MOTION: (BUCK/BEAMER)**

**To approve B-7 as submitted.**

**UNANIMOUSLY APPROVED**

Deputy Manuel announced how he wanted the Commissioners to be re-energized for Item C1 as the last update was in the year 2000 and hearing the updates today gives the Commission an opportunity to re-frame how the Commission will plan for its water future and create the guidelines and framework for how the Commission’s sees water in the next 20 years; and how the components touched on today can be reflected in this agency.

051821 05:30:13

**C. INFORMATIONAL BRIEFINGS****1. Summary of Survey Results Regarding Revising the Statewide Framework for Updating the Hawai‘i Water Plan**

PRESENTATION GIVEN BY: Mr. Jeremy Kimura, CWRM Planning Branch

Mr. Kimura gave a PowerPoint presentation on the item which serves as a guidance document with the other planning components integrated to help in water resource issues. The objectives of the plan and survey were highlighted with the reasonings of “why is this the right time for updating the framework of the Hawai‘i Water Plan”

Questions/Answers of the survey were noted and touched on with the updating framework process highlighted integrating of more community, stakeholders, farmers, and other vested groups that benefits from this plan.

**QUESTIONS/DISCUSSION**

Commissioner Hannahs – has the survey been given to those who testified today, especially those testifying on Honokōhau, Moloka‘i or Wai‘oli matters and if you would’ve asked those questions in the same way?

Mr. Kimura – we tried to cover a broad smaller group and some that testified today did receive it. I expected to see more answers regarding the traditional and customary practices as a missing component and wished more of those answers did come through.

Commissioner Hannahs – looking at the survey results, it felt like it came from a largely internal government administrative view of water and not what we were hearing from the community; appreciated you tried and glad to see T&C stakeholders in your focus groups. I think there’s value in them talking to each other; like the value of having MLP in the room as these people were talking today was valuable and hope they hear each other not just give input and siloed.

Deputy Manuel – agreed and noted that these groups want to establish trust and trust-building to happen in order for them to share wholly, ultimately to work together to come up with strategy to protect and conserve water resources that looks at everyone’s needs is something we can incorporate in this process.

Commissioner Hannahs – commented on the people’s need for water as; but from a Hawaiian world view, water needs to be valued for its intrinsic value whether its used or not; vibrancy and abundance for life

Deputy Manuel – yes, that intrinsic value is not part of that framework that’s why this update is so important because that worldview is not present and explicit. If it was an explicit component of the framework, what would it do to the components of the HWP or what would be required of the preparers of those documents if that was a worldview that was explicitly driven by this Commission?



That's the purpose of this framework, it creates that ripple. There's an opportunity for this body and collective community to come-up with what that lens is for the next 20-years. All future updates for this water plan, everyone's coming in eyes wide-open; this is the new our lens we want to see our world through. How do we hold our State agencies through and run them through our filter? What does that look like when we change the framework?

It's a great place to have these philosophical values-based conversations on water resource management, protection and conservation and see that trickle down to the components of the Hawai'i Water Plan.

Chair Case – what are our state-wide priorities? The way it's articulated under the current administration is through the sustainable Hawai'i initiative, which is five components. 1) Watershed protection; 2) near shore reef protection; 3) invasive species; 4) food sustainability; 5) energy. Which we need to make sure we incorporate energy – we have hydro and pump storage projects on the wishlist or horizon; all those components as well and need to look at the whole picture. Where are trying to head and therefore, are we planning to meet those objectives?

Deputy Manuel – yes, bridging this administration's Sustainable Hawai'i Plan is another lens we can connect and add value to the framework. Energy is a missing component from the current framework, not explicit but could be elevated. All of these focus areas could be priorities in the next 20-years if that's what this Commission wants to be refocused on.

Again, we're evaluating and recharting new territory of where we want to go, it's a blank slate. A lot of them are specific to a certain community, action or regulatory decision but all fit within a framework which is critical for us collectively to design, shape and frame.

Commissioner Buck – commented on the economics of the plan noting that economics was never supported when creating the Water Code. We have no feedback loops of economic fluxes to pay for the public trust. We need to talk about the value of water, its priceless but no one wants to put a value on it and someone has to pay for the public trust. (*commented on the economics of the under-funded public trust agencies*) The plan has to be sustainable from an economics point and it currently isn't.

Deputy Manuel – it is something we discussed internally and been thinking about bringing in economists and researchers to start to talk about strategies around this issue and we'll incorporate that in this framework which is a big task to take on; Mahalo for that and is a great reminder.

Commissioner Beamer – it's a great opportunity and mahalo for putting it together. Noted on the Commission's improvement of the one-water approach and linking surface and groundwater together. Also commented on the community's input and testimonies in relation to both ground and surface water issues. It's a key framework looking at traditional and customary rights, aia i hea ka wai a kane, and also the economic side of it is equally important. To me, there are gaps in management between designated and non-designated areas and a potential economic driver for the Commission could be water leases and licenses, but CWRM doesn't manage that and set those rates. Then there's the PUC and other aspects that's connected to water.

We need to have a one-water holistic approach and this area of designated and non-designated areas has a market difference in how we manage them.

Chair Case – asked what is the connection of sustainable yield to groundwater ecosystems? noting it's a different formula but an important one to connect the dots on. SY calculation doesn't protect groundwater in an ecosystem the way it's set up now and need to include those in the framework.

Commissioner Buck – commented on the use of out dated delivery systems such as plantation irrigation systems, private water systems providing public trust resources, and high-level reservoirs used for pump and water storages.

Commissioner Beamer – referred to the GDE in relation to the RAM model and possibly looking at other models to refer to.

Deputy Manuel – we want to engage with you (the Commission) as much as possible on this as this is going to involve your creative juices, innovation and guidance.

I appreciate the feedback and time.

Commissioner Meyer – appreciated the discussion as it was constructive and helpful. Noted on the economics of it as there's a tendency to think of water in terms of how much it costs to get there and a way of establishing value, allocating use and thinking of dollars per thousand gallons use.

*Chairperson Case appreciated the value and engagement of the discussion.*

#### **D. ANNOUNCEMENT (ADDED)**

Mr. Roy Hardy, Branch Chief, CWRM Groundwater Branch announced his retirement after 33-years with the DLNR Commission on Water Resource Management Division and also noted the news of the fresh-water find in the Kaloko Deep Monitor Well source.

Commissioners thanked Roy for his knowledge, expertise, great work, and accomplishments for his many years of service to the CWRM.

**E. NEXT COMMISSION MEETINGS (TENTATIVE)**

June 15, 2021 (Tuesday)

July 20, 2021 (Tuesday)

This meeting was adjourned at 3:11 p.m.

Respectfully submitted,



RAE ANN HYATT  
Secretary

OLA I KA WAI:



M. KALEO MANUEL  
Deputy Director

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**Written Testimonies Received:**

May 18, 2021

Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai'i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai'oli Stream, Wai'oli Hydrologic Unit (2018), Hanalei Kalana, Halele'a, Kaua'i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

My name is Reid Yoshida, and I write to you as both a taro farmer and the President of the Wai'oli Valley Taro Hui. Mahalo for the opportunity to brief you back in April on our biocultural stewardship practices in Wai'oli. I am so grateful for Ayron's hard work and the rest of your staff's support throughout this process. The Hui **strongly supports this amended Interim Instream Flow Standard (IIFS) of 50% of the flow (4 mgd at the Q90)**, and humbly requests that you **adopt it today**.

As the Commission learned in April, as a Hui, it is our mission to support and enhance the

biocultural resources of the Hanalei Kalana, traditionally comprised of Hanalei, Wai‘oli, Waipā, and Waikoko; to protect the natural and cultural resources that enable traditional and customary Native Hawaiian practices; to maintain habitat for endangered Hawaiian waterbirds; and to engage the greater Kaua‘i community through educational outreach programs and initiatives relating to taro farming and community-based stewardship of water resources.

The law students call our Hui a legal unicorn because uses like ours have become rare in this day and age. Our farmers continue the centuries-old **instream use** of routing fresh, flowing water from Wai‘oli Stream through our lo‘i and back into Wai‘oli Stream and Hanalei River. This Hui and our ancestors have stewarded Wai‘oli Stream and the greater Hanalei Kalana for four to six generations or more – long before there was a State of Hawai‘i, conservation district, or interim instream flow standards. For example, my family has been in Hanalei for 125 years. My great grandfather came to Kaua‘i to work on the plantations and settled here in the late 1800s. My grandfather was born in Hanalei in 1896, and I am fortunate enough to live in the same home that he built in 1933. In the 1920s, he started farming rice and then slowly started to plant taro as a supplemental crop in the 1940s. By the 1950s, due to the competitive rice prices in California, he left that crop and focused on taro. For years to follow, my grandfather continued to farm until my uncle eventually took over.

Growing up, I split my time between O‘ahu where I went to school, and Hanalei where I spent my summer/spring breaks, long weekends, and holidays. We worked the farm whenever I was in Hanalei. When my friends were out playing sports and going to the beach, we were pulling grass, planting huli, or using the tiller to prep the fields. After graduating from high school, I went to college in California. I received my degree in Engineering and spent seventeen years as an engineer/project manager for a few different contractors here in Hawai‘i and on the continent. During those years, I always returned home to Kaua‘i to work in the lo‘i and help my family. I didn’t take vacations during my professional career to travel; instead, I came home to help work in the lo‘i. In 2010, I decided to leave my career as an engineer to move home to Hanalei. Over the next few years, I helped my uncle on his farm and some of my friends who were also taro farmers.

In 2015, I was fortunate enough to secure a 6-acre lease, which enabled me to build my own farm and continue to farm today. Many people have questioned my decision to walk away from my career as an engineer to farm taro, but I did it because it is gratifying, because I am able to farm on the same land that my grandfather did, and this gives me pride in what I do. I am carrying on my grandfather’s legacy, and I am committed to ensuring that it won’t end with me.

Although our farming community has always been close, we did not formally organize as a nonprofit until the devastating 2018 floods made it painfully clear that our entire community and way of life was at risk. Our lo‘i kalo irrigation system sustained major damage, completely cutting off our water supply. In addition, disaster recovery efforts revealed that our māno was on conservation land, which triggered a host of permits, exemptions, and other requirements. We have worked closely with Ian Hirokawa and others and were grateful when the Land Board approved a right of entry and perpetual easement for our lo‘i kalo irrigation system, and a revocable permit for our water use. But, a long-term water lease has remained elusive, and this IIFS is a necessary step in that process.

While permitting has progressed, flood recovery has been challenging. Major damage to our system has made our water supply inconsistent, and severe weather events in the Fall of 2020 and Spring of 2021 leveled repairs to our irrigation system made by the County of Kauaʻi in 2020. This damage has created a lot of stress and left many of us wondering if there is a future in taro farming for us. In fact, I've had to go back to my career as an engineer for a contractor on Kauaʻi. This was not my plan or wish, but I had to financially support my family as my farm is relatively small, and my production was down about 40% compared to pre-flood conditions until 2019 (it has finally started to come back over the last few years). I continue to work the farm on a part-time basis with the hope that I can return to farming full-time when our water system is fully repaired.

In addition to the physical devastation, the 2018 flood has forced our Hui to navigate a legal maze to continue to care for resources that our families have stewarded for centuries. Though it's been hard, we've learned so much through this process. We are grateful that the people of Hawaiʻi value our traditional taro cultivation as a **protected public trust purpose** under the State Constitution and Water Code. Members of our Hui have **appurtenant, riparian, and traditional and customary Native Hawaiian rights**. After the four to six generations that our Hui has been farming together, we have this down to a science. Our uses are reasonable and beneficial because we have to be exceedingly efficient in order for our dozen or so farmers to have enough water to cultivate the 80 or so acres of loʻi that we steward. We have dutifully complied with all of the legal requirements imposed since the 2018 floods, but it's been a lot.

The support your Commission showed us in April gives us hope that at some point we will be done with these legal processes so we can focus on rebuilding our irrigation system and farms. Ayron's amended IIFS is appropriate for a number of reasons. It is consistent with Native Hawaiians' historical diversion of not more than 50% of a stream's flow, and this traditional approach is perfect for our traditional use. Back in the 1980s, our members **declared their uses with this Water Commission**, and you verified total water use of about 13.5 mgd. Our Hui is still in basic recovery mode because of the flooding, but we are working towards getting back to that capacity eventually.

Like our ancestors, we adaptively steward our resources, so we look forward to continuing to work with Ayron if adjustments are necessary. The amended IIFS is an important step in the process, but we still have a long way to go. Once the amended IIFS is set, we can submit our Draft Environmental Assessment for a long term water lease. Amending the IIFS will allow my family, as well as many other families, to continue raising taro. Some claim the future is bleak for taro farming, but your staff submittal gives us hope. It is my hope that when I am at the point where I can no longer physically continue to farm, there will be a new generation that will want to continue. Having the right to continue to use and maintain the system our ancestors stewarded for centuries will ensure that future generations have the opportunity to raise taro and enjoy the same incredible opportunity that I have. Mahalo again for this chance to testify and please vote to adopt the proposed IIFS.

Mahalo,

Reid Yoshida

President, Waiʻoli Valley Taro Hui

May 18, 2021

Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai'i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai'oli Stream, Wai'oli Hydrologic Unit (2018), Hanalei Kalana, Halele'a, Kaua'i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

My name is Kimo Inanod and I am a kalo farmer in Wai'oli Valley. I am also the Vice President of the Wai'oli Valley Taro Hui. Mahalo for considering the amended Interim Instream Flow Standard (IIFS) so that we may continue to steward our ancient lo'i kalo system. Like many others in our hui, my family has been farming kalo and taking care of Wai'oli's natural and cultural resources since before I was born. I am a 4<sup>th</sup> generation Native Hawaiian kalo farmer; I cultivate one kuleana that my family owns and about seven acres that I lease from Wai'oli Corporation. Because of this, I also help to mālama Wai'oli Stream and the larger watershed. As a hui of small family farmers, we take pride in stewarding these life-giving resources.

I was raised by my grandpa, James Masada, right here in Wai'oli. Over thirty years ago, in May 1989, my grandpa and I submitted declarations of our water use with your Commission. In 1993, your Commission verified our water uses from the same mānowai, po'owai, and 'auwai that we use today. In addition to farming kalo, I am also an avid hunter, and regularly access the ma uka reaches of our watershed to exercise my traditional and customary Native Hawaiian rights and practices. Because of this, I am keenly familiar with this 'āina and feel an obligation to ensure responsible use of this land and its resources.

For me, and so many others, our work is about restoring and continuing our way of life as Native Hawaiian practitioners and small family farmers. Kaua'i's North Shore has changed dramatically during my life, and our sleepy farming community has been transformed into a bustling tourist destination and construction zone. Our hui of small farmers has undertaken a massive effort to follow all the steps to get a water lease, and we have tried to do so while carrying on with our daily work of stewarding the resources carefully cultivated by our ancestors. Amending the IIFS for Wai'oli Stream is a vital step in protecting both our stream and the cultural practices dependent upon it, including the Hui's kalo cultivation. While it won't resolve all our issues, it provides some assurance that our culture and way of life in this kalana get chance for our children and the generations yet to come. While we still have a long road to recovery, our community is resilient and committed to this work. My 'ohana and I ask that you adopt the amended IIFS for Wai'oli Stream today to help us continue this way of life that has shaped our 'ohana and our larger community for generations.

Mahalo piha,

C. Kimo Inanod

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May 18, 2021

Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai'i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai‘oli Stream, Wai‘oli Hydrologic Unit (2018), Hanalei Kalana, Halele‘a, Kaua‘i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

My name is JoAnne Kaona and I was born and raised on Kaua‘i. I grew up in Wai‘oli, and come before you as a fourth-generation Native Hawaiian kalo farmer.

Mahalo nui for the opportunity to testify in strong support of this matter, which is of great importance to my ‘ohana. And, a special mahalo to Ayrton for going out of his way to work with us in Wai‘oli Valley to set a numeric IIFS and ensure that we can monitor our water use. As you know from your April meeting, I am a Wai‘oli kalo farmer, and the Secretary and a Board Member of our nonprofit, the Wai‘oli Valley Taro Hui. We are grateful to have been able to share our situation at your last meeting – your support has meant so much to our Hui and to me personally as I try to ‘auamo my kuleana to keep our family farm going.

My father, Clarence “Shorty” Kaona, has had primary responsibility for our family kuleana along with a handful of other small parcels for about 33 years. As one of five children, I am the only one who helps my Dad mālama our lo‘i. For me, kalo farming defines our ‘ohana; it is what we do. My Dad took over this kalo farm from his father in 1987. In 1989, he filed a Declaration of Water Use for our appurtenant and traditional and customary Native Hawaiian rights and practices in Wai‘oli. My twin brother and I grew up on our small family farm and were blessed to have been afforded a lifestyle that allowed us to know and enjoy the amenities of our ‘āina.

Unfortunately, these amenities are not as plentiful any more. Since the 2018 floods devastated our ‘āina – our lo‘i kalo, manōwai, po‘owai, and entire ‘auwai system – things are just not the same. A year after the floods, for the first time in my father’s 75 years of farming, he was not able to produce any kalo. This was caused by many factors, including water shortage due to the damaged mānowai and ‘auwai, equipment that was ruined by the floods, and debris and silt clogs in our lo‘i. Despite all of our work to carefully steward and mālama our ‘āina for multiple generations, we now have tons of legal kuleana to ‘auamo, in addition to the physical restoration our farms require.

Farming kalo is my kuleana, it is an opportunity to feed my community, as well as my own spirit; I enjoy helping my Dad farm and have a deep appreciation for it as something that we share. Even in his 80s, my father still works hard as a taro farmer and I know that the kuleana will fall upon me to ‘auamo when he is no longer able. After four generations of kalo farming, it would be impossible for me to turn away from this traditional practice that has been with my ‘ohana forever. In fact, there is no other alternative for me but to be a kalo farmer, just like my Dad before me and his father before him.

Kalo farming teaches us how to act – how to mālama our ‘āina – and these lessons are blessings that I was lucky enough to experience growing up. I see the kids that I work with every day and they are consumed with technology, with little opportunity to experience our ‘āina like I did when I was their age. In my work at the Waipā Foundation, a nonprofit in the neighboring ahupua‘a, I work with keiki and teach them about aloha ‘āina, sustainability, natural resource management, and how all of these are part of our traditional and customary Native Hawaiian

practices. I see it as an opportunity for me to instill a sense of kuleana in this younger generation to take the teachings of our kūpuna and apply them to our practices today.

A mission of the Waipā Foundation is to create a healthier community by educating our people about the benefits of an Indigenous diet while also keeping it affordable. One way to maintain this is by ensuring that our community has local kalo and poi to eat. The Waipā Foundation gets 70% to 90% of our kalo from the Wai‘oli farmers, including my Dad. The Foundation processes that kalo and poi at our certified kitchen with volunteer labor and provides pa‘i‘ai for our community, at or below cost. For example, Waipā’s pa‘i‘ai price for kūpuna is variable, but can be one or two dollars per pound; or even free for kūpuna who cannot afford it.

In the greater scheme of things, I see my own kuleana as helping to sustain a healthy lifestyle for our entire community, from keiki to kūpuna. We in Hanalei, and more particularly the farmers in Wai‘oli, have been blessed to be able to farm kalo on ‘āina that has been stewarded in this same way for many, many hundreds of years. The ‘āina is well-suited for wetland kalo cultivation and the ‘ohana who have been farming for multiple generations, like mine, have taken on this kuleana to ensure accessibility to our lāhui’s most basic and essential food. This kuleana is a heavy burden to carry at any time, but even more so when our access to water is uncertain. So, we are asking for your kōkua to allow farmers like me to continue feeding our communities. So much of our kalana is not the same any more; I don’t recognize the same safe community that

I grew up knowing, and often I feel frustrated because our town has become so crazy and inundated with faces that are not kama‘āina. The shops and restaurants that cater to tourists sit across the road from the illustrious lo‘i kalo, which give our Wai‘oli its joyful name. In light of all of these changes, I come here today with my fellow farmers humbly requesting that this Commission ensure that the amended IIFS provide enough water for us to maintain our traditional and customary practices, which have been passed down from our ancestors, to our kūpuna, to us. As Native Hawaiian cultural practitioners, we steward this ‘āina in the same way that our ancestors did, preserving some small part of our kalana. We respectfully ask that this Commission vote to adopt the proposed IIFS of 4 mgd for Wai‘oli Stream, which we believe will enable us to continue our cultural practices as Native Hawaiian kalo farmers, and eventually pass them on to future generations as well. I will be at the meeting via Zoom and am happy to answer any questions you may have.

Me ka ‘oia‘i‘o,

JoAnne Kaona

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May 18, 2021

Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai‘i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai‘oli Stream, Wai‘oli Hydrologic Unit (2018), Hanalei Kalana, Halele‘a, Kaua‘i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

My name is Clarence “Shorty” Kaona. I am a third generation kalo farmer in Wai‘oli Valley,



100% Native Hawaiian, and a member of the Wai‘oli Valley Taro Hui. Mahalo for this opportunity to testify in support of the amended Interim Instream Flow Standard (IIFS) for Wai‘oli Stream.

I have been farming the same kuleana land since I was six years old. My Grandfather started farming kalo in Hanalei Valley in the 1930s. When he passed away, my Dad took over. In the 1940s, my Dad acquired land in Wai‘oli Valley. This is the same kuleana land that I continue to farm, and that my daughter, JoAnne Kaona, will mālama after me, and the same land that will pass to future generations of our family. When we were kids, we would walk to the kalo patch to work every day. We were tasked with weeding, tilling, planting, and any other work my Mom and Dad needed help with. I think back to those days fondly. We would make poi every week with a model A Ford engine that my Dad hooked up to our grinder. We shared the poi with our ‘ohana and friends in the community. As long as I can remember, we always had a bowl of poi on the table. From grade school through high school, my brothers, sisters, and I spent countless hours in the lo‘i. This routine for us stemmed from our cultural practice as an ‘ohana. I am grateful for this experience, as it taught me many lessons and ultimately shaped my values. I learned to work hard, be diligent, and be one with nature. Everything in our environment, us humans included, has an impact on the kalo’s growth.

Because our hui has always shared one ‘auwai system, we are responsible in our use of resources, and our water use is reasonable and beneficial. Otherwise, our farms and families would not have survived. For many of us in the hui, our families have been working together for multiple generations. Stewarding this ‘āina from a young age taught me the value of our native culture and the importance of ‘ohana. I lived in California for some time, but when my Dad passed away in 1986 I moved back to Kaua‘i. I have been farming kalo here in Wai‘oli Valley full-time ever since. I knew that no one else would step up to this responsibility, and it means a lot to me to honor my Dad’s legacy and continue to farm kalo. I hope to pass down the lessons I learned in the lo‘i to my children and the generations to come.

My family has been in Wai‘oli for many years, and I work hard to continue our traditional and customary Native Hawaiian practice of wetland kalo cultivation. Since the devastating floods in 2018, the work has been even harder to continue. I currently farm about three and a half acres of kalo, which is only about half our normal, pre-flood acreage. In all of my years here in Wai‘oli, I have never seen a flood like that. The damage was devastating. It ruined my equipment and tools, most of the banks that border my patches, and the ‘auwai. Over the last three years, we have made some progress; but in some ways, the real restoration has yet to begin. Our hui regularly maintains the mānowai, po‘owai, ‘auwai, and other areas along our lo‘i kalo irrigation system. This cleaning ensures that our usage is efficient, and also supports ma uka to ma kai stream flow, a healthy watershed, and helps to prevent flooding. This work is important not only for our hui’s farms, but also for the larger Wai‘oli and Hanalei communities. As you know, water is integral to lo‘i kalo cultivation, and we hope that an amended IIFS for Wai‘oli Stream will support both our stream and continued kalo cultivation.

We support the proposed IIFS for Wai‘oli Stream and the important protections it provides for our resources. It will also enable us to continue farming so that our traditional and customary practices, knowledge, and lessons, can be passed on to future generations. The recovery efforts and legal requirements have been really hard, but this amended IIFS gives me hope that the

younger generations will be able to continue kalo farming in Wai‘oli. This deep seated cultural knowledge and other lessons can only be gained through the hard work and love that comes from spending time in the lo‘i.

Mahalo for the opportunity to testify in strong support of the amended IIFS for Wai‘oli Stream, which is vital to my ‘ohana and our larger community. Please vote to adopt the numeric IIFS for Wai‘oli Stream today, and help us keep our cultural practices alive in Wai‘oli.

Mahalo nui,

Clarence “Shorty” Kaona

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May 18, 2021

Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai‘i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai‘oli Stream, Wai‘oli Hydrologic Unit (2018), Hanalei Kalana, Halele‘a, Kaua‘i**

Aloha Chair Case and Members of the Commission on Water Resource Management, My name is Bobby Watari and I am a Board Member and the Treasurer of the Wai‘oli Valley Taro Hui. A big mahalo to Ayron and this Commission for all of your hard work and aloha on behalf of our small community. I was unable to attend your April meeting due to the highway closure, but know how heartened our Hui members were by your continued support for our efforts. Today, I urge you to please vote to amend the Interim Instream Flow Standard (IIFS) for Wai‘oli Stream. Your action is vital for us to move to the next step in our journey to secure a long term water lease, while also protecting our stream and the practices dependent upon it — including our taro patches.

I am a 3<sup>rd</sup> generation taro farmer who has been farming full-time for the past 40 years. Farming kalo is my life’s work and passion. I learned to farm from my father, who moved to Hanalei in the 1950s to grow taro and I now steward the same lo‘i that was my first classroom. I farm the kuleana land that my family owns and I also lease from Wai‘oli Corporation.

My wife Lillian and I are grooming my step-son, Kaisen Carrillo, and our daughter Lily to take over. It feels like I am working constantly to ensure that our farm is operational and healthy so that my kids have the option of continuing this important family tradition. Unfortunately, this has been a struggle. Farming is so much more than planting and harvesting. We work hard to maintain the land for taro. This includes monitoring and maintaining Wai‘oli Stream and the lo‘i kalo system that has been in place long before I started farming. In Wai‘oli, we use a traditional Hawaiian irrigation system that has been operating since the 1500s. It’s hard work, but we are honored to be a part of the handful of farmers who continue this important practice — one that has been our way of life in Wai‘oli for hundreds of years. We feed our community by supplying this staple to small nonprofits like the Waipā Foundation and others throughout Hawai‘i. My step-son Kaisen also provides lū‘au leaf so local families can make laulau and other Hawaiian food.

Restoring and maintaining our existing lo‘i kalo system is so critical — not only for my family’s livelihood and the livelihood of the other famers — but also to perpetuate a practice integral to

our community's identity. We use a mānowai, a traditional, Native Hawaiian breakaway dam, to take some water from Wai'oli Stream. That water flows through our 'auwai (ditches), then into our taro patches, then back to either Wai'oli Stream or the lower reaches of Hanalei River. Like other taro farmers, we need throughflow — water flowing through our taro patches — but we don't "consume" water like most offstream users because it goes back to the stream. All of our use is within the kalana where our water supply originates. So, the water that runs through our patches eventually goes back to feed our water cycle in Wai'oli Stream and Hanalei Kalana. For these reasons, instream, in-watershed cultivation of kalo in a traditional manner (like ours) has earned special protection and respect under Hawai'i's Constitution and laws.

The way we steward our system is unique in that it perpetuates a centuries-old Native Hawaiian cultural tradition that is place-based and resource-specific. Our families have stewarded these resources long before there was a State of Hawai'i, conservation district, or interim instream flow standards. We know this stream well, and Ayron's proposed IIFS is appropriate for our situation. Historically, Native Hawaiians diverted up to 50% of a stream's flow. So, this Native Hawaiian approach is appropriate for our Native Hawaiian cultural use of kalo cultivation. The irony of our situation is that, although we have been stewards of this area and its resources for hundreds of years, due to the devastation and repairs related to the 2018 floods, we now have to navigate this complex maze of legal requirements. Throughout it all, we have and will continue to dutifully comply with the various requirements. As you well know, our uses are protected public trust purposes. We have appurtenant, riparian, and traditional and customary Native Hawaiian rights. My 'ohana declared our uses with the Water Commission back in the 1980s and staff verified them.

April 2021 marks three years since one of the most devastating floods in recent memory. Although much has been done, we still have more work to do. We continue to struggle with damage from severe weather events. Though our māno was repaired in the August 2020, it was leveled again in the fall. The number and severity of weather events continue to increase. In fact, last month, my wife and I were caught in a flash flood, which completely overtook our farm in less than 10 minutes. We desperately need to finish the legal permitting so we can focus on rebuilding our irrigation system and farms.

For the first time in my life, I have had to face the harsh reality of many of my fields remaining unplanted. Prior to the 2018 floods, I had never seen so many of my fields empty. It has taken a toll on me personally and on our family. We enjoy, and are proud of, being able to farm as family. The vision I have of farming this land with my wife, Lillian, step-son, Kaisen, and our daughter Lily gives me the strength needed to continue during these difficult times. Knowing that in the future our 'ohana will continue to have access to water from Wai'oli Stream gives me hope that they will be able to continue our family tradition of farming taro.

Mahalo for taking the time to consider my testimony and for your ongoing work to protect our valuable natural resources and the traditional practices upon which they depend. Our continued efforts are uplifted by your support. We humbly ask for you to adopt the amended IIFS at this meeting.

Mahalo nui,

Robert "Bobby" Watari

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May 18, 2021

Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai'i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai'oli Stream, Wai'oli Hydrologic Unit (2018), Hanalei Kalana, Halele'a, Kaua'i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

My name is Lillian Watari and I am a 4<sup>th</sup> generation Native Hawaiian kalo farmer. Unfortunately, I was not able to attend the meeting in April because of work, but I heard great things from our Hui members. Mahalo to you all and Ayron so much for your continued support. It has been a difficult 3 years since the flooding, but the time and attention you give the Hui and our 'ohana gives us hope for the future. I humbly ask you to vote to amend the Interim Instream Flow Standard (IIFS) for Wai'oli Stream. This is a crucial next step to ensure that we can continue our family's traditional and customary way of life.

I have been farming for 45 years. Our 'ohana started farming kalo in Lumaha'i with my greatgrandfather Saburo Harada. My grandfather Genichi Harada then moved the farm to Wainiha, and the tradition continued with my mother and father who still farm in Wai'oli Valley at 74 and 85 years old, respectively. I am married to Bobby Watari and we are proud to work with our son, Kaisen Carrillo.

Kalo farming is more than a longstanding custom and tradition in our family, it's our way of life and our family legacy. Growing up, I was the eldest of 5 children. As soon as we were physically able, we were out in the lo'i helping our parents and grandparents maintain and cultivate kalo. At such a young age, I didn't understand the commitment necessary to farm kalo. It felt like a burden. Our lives revolved around the kalo's needs. Our routine consisted of coming home after school, having just enough time to grab a quick snack, and loading up the truck to head down to the lo'i. Looking back now, this is a testament to our community's commitment to farming and the natural resources upon which we all depend. I also realize the value of the lessons I learned working in the lo'i. I am proud of my family's tradition of farming kalo and the person it has made me. It taught me the value of hard work and the importance of being able to spend time with nature.

I currently work full-time at a hotel. Yet, even now, I look forward to the weekends and being able to go to the lo'i and have the opportunity to be there with my family. It gives me the peace of mind that is often hard to find in today's complex world. It's hard work, but I enjoy it and wouldn't trade it for anything. It's beautiful to continue the legacy built by my grandparents and to pass that on to my children and, hopefully, my grandchildren.

As I understand it, setting an IIFS for Wai'oli Stream of 4 mgd would both protect the stream, and enable our Hui to continue our Native Hawaiian traditional and customary practice of kalo cultivation. It has been hard since the floods almost three years ago, both emotionally and in terms of our kalo production. Our family farm may have been hit the hardest because of where

our lo‘i are situated in relation to the floodwaters. For the first time in our lives, our farm was left with many empty fields for a number of reasons, including a decrease in water flow. Yet, we are resilient and will persevere. We are still here. We just want to be able to get back on our feet and continue to practice the culture we love in our small community. The North Shore of Kaua‘i has changed so much over the years. Yet, I can say that our identity as a community is grounded in kalo farming. It is a true testament to our community that we work together and help each other get through challenges like this. We are proud of who we are and what we do, and hope to continue to pass down this tradition to future generations.

I would like to mahalo Ayron and the Commissioners again for all of your kōkua. We believe we can set an example by working together as responsible stewards of this special place that we call home. Please vote to approve the amended IIFS. We look forward to continuing to work with you all to mālama our natural and cultural resources.

Mahalo,  
Lillian Watari

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May 18, 2021  
Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai‘i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai‘oli Stream, Wai‘oli Hydrologic Unit (2018), Hanalei Kalana, Halele‘a, Kaua‘i**

Aloha Chair Case and Members of the Commission on Water Resource Management!

Mahalo for the opportunity to testify in support of an amended Interim Instream Flow Standard (IIFS) for Wai‘oli Stream. I was looking forward to speaking with you all at the meeting in April with other members of our Hui. Unfortunately, I had to leave to pick up my daughter before the Commission was able to reach us on the agenda. Although I was disappointed in not being able to speak with you all, it gave me an appreciation how much kuleana you all have. It was also a reminder of how important this work is to ensure our traditional practices can be passed on to future generations, like my daughter. We are incredibly grateful that you have continued to support us and make time for us in the midst of everything else. Mahalo to your staff, and Ayron in particular, for everything you do. Please vote to approve the amended IIFS of 4 mgd. Doing so is an important next step in ensuring a viable future in farming for our ‘ohana and many others.

My name is Kaisen Carrillo and I come from multiple generations of kalo farmers on both sides of my ‘ohana. My mother’s side of the family, the Haradas, started farming with my great-grandfather, Saburo Harada, in Lumaha‘i. My great-grandfather, Genichi Harada, eventually moved the farm to Wai‘oli and my ‘ohana has been farming in the valley ever since. My great grandfather’s daughter, my grandma Lily, married Ahfook Tai Hook and both of them still farm in Wai‘oli at 74 and 85 years old. Finally, my mom Lillian, daughter of Ahfook, married Bobby Watari, who also farms in Wai‘oli Valley. That leaves me, a 29-year-old 5<sup>th</sup> generation Native Hawaiian kalo farmer in Wai‘oli Valley. I am one of only three farmers in Wai‘oli younger than 35-years-old. I have started my own family and am raising my 4-year-old daughter and 1-year-old son to farm this land as well. With your support, they will be 6<sup>th</sup>

generation Wai‘oli kalo farmers. I spent some time outside of Kaua‘i, going to school, earning my associate’s degree in hospitality and my bachelor’s degree in business. I’m grateful to have these degrees and have been putting them to good use since I moved back to Kaua‘i. Now, as an adult, I am able to use my formal education to expand my own farming efforts and am currently being groomed to run our family farm someday.

Since the 2018 floods, though, things have really been hard. As a full-time farmer with a young family, it’s been stressful trying to figure out how to provide for my family. I need to not only repair the damage to our farm, but also provide for my growing family’s needs. At the same time, I have been trying to engage more in the administrative aspects of farming by working with our Hui to learn about the issues unique to Wai‘oli kalo farmers. These include securing a perpetual easement and revocable permit from BLNR, applying for a long-term water lease, and now, working to set a numeric IIFS with this Commission. I am committed to these issues because I know this will make it possible for my children to farm, just as my kūpuna did all they could to pave the way for me to continue farming.

One of the most important reasons for adopting the proposed IIFS is because farming kalo differs from most other uses. As you know, our traditional, Native Hawaiian methods of kalo cultivation rely on “throughflow.” Water from the stream flows into our lo‘i then returns to Wai‘oli Stream and Hanalei River. So, it’s not consumptive or polluting, and all use is within the same watershed. Additionally, understanding the importance of water resources, Kānaka Maoli have historically diverted up to 50% of a stream’s flow. This approach is particularly appropriate for the traditional and cultural practice of farming kalo – especially in Wai‘oli where our hui has farmed for generations. Last, our use of the stream is a protected public trust purpose. In addition to Native Hawaiian traditional and customary rights, we also have appurtenant and riparian rights. From my understanding, farmers like my step-dad and grandpa declared our water use with the Water Commission in the 1980s, which was later verified. Our stewardship of the stream brings together centuries of Native Hawaiian knowledge that is specific to this ‘āina. Humbly, Hui members and our ancestors are the original experts with regard to the needs of Wai‘oli Stream and the Hanalei Kalana. Our stewardship of the stream is directly tied to our ability to continue our traditional practices for the generations to come – this is a kuleana to which our hui has committed.

This responsibility is very important to me because I am raising my keiki with Native Hawaiian values in the hopes that they will develop a passion for kalo as a connection to our culture. But, without the security of knowing we have the water as we need to cultivate kalo, it is difficult for me to look them in the eye and promise that they will be able to cultivate the same patches that their ancestors stewarded for generations.

As difficult as things have been, I love what I do. This is my culture. It is what my family has been doing forever. I feel a deep sense of pride and honor to ‘auamo my kuleana and perpetuate this practice – especially now when many of my generation are becoming less interested in taro farming. To be honest, there are more lucrative ventures for some. But, what we do goes beyond monetary value; this is about kuleana. It is our way of life and we will continue to farm taro on these lands for as long as we are physically able.

Mahalo for the opportunity to share my support for this incredibly important action. A numeric

IIFS of 4 mgd would bring us peace of mind, support traditional kalo cultivation, enable ‘āina-based stewardship, and protect our stream and way of life. Our ‘ohana and larger community depend on the work we do and we look forward to continuing our kuleana to this ‘āina and its resources. Please support the staff’s recommendation and vote to adopt a numeric IIFS in line with Native Hawaiian custom.

Mahalo,  
Kaisen Carillo

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May 18, 2021  
Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai‘i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai‘oli Stream, Wai‘oli Hydrologic Unit (2018), Hanalei Kalana, Halele‘a, Kaua‘i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

My name is Wilbert “Afuk” Tai Hook and I have been a farming kalo in Wai‘oli Valley for over 70 years. Mahalo to this Commission and Ayrton for all the time and attention you have given to our ‘ohana. I wasn’t able to attend your April meeting due to the difficulties caused by the highway closure, but our hui is deeply moved by your continued support. We work hard to pass down this way of life to the generations that follow us. Our culture, our ‘ohana, and the longstanding connection we have to this ‘āina fuels the work we do. Please vote to amend the Instream Flow Standard (IIFS) for Wai‘oli Stream so we can continue the work necessary to protect the future of our stream, resources, and cultural practices.

Wai‘oli Valley is the center of our connection as a family. I started farming kalo here with my father when I was 8 years old. Now, at 85 years old, I am still farming kalo in Wai‘oli. I retired as Fire Captain of Hanalei Station more than 20 years ago and I have been farming full-time since then. Farming kalo is extremely hard work and continuing this tradition at my age fills me with pride and joy. The fact that my daughter Lillian and grandson Kaisen are carrying on our tradition and culture makes that pride overflow. I am not the only farmer in my 80s that still farms. Unfortunately, it seems like the younger generation is less willing to dedicate themselves to this practice. Kaisen is the only grandkid that has shown an interest and dedication to continuing this way of life. Seeing him pass on our traditions to his own children makes me so happy and gives me hope that farming kalo will continue in our family.

We know this stream and its needs well. It’s our kuleana. My father taught me how to farm kalo specifically for this area and I have continued to pass down that knowledge to my family. We know that what we do in our lo‘i affects the larger watershed. The health of the stream is fundamental to our survival as well. As we take care of it, it takes care of us, and we can then take care of our families and community.

Since the 2018 floods, things have been hard for us. We have stewarded this ‘āina for generations and that was the worst flooding that I’ve seen. The stream completely changed. It made me realize how important it is that the younger generation continue this practice. Those of

us who are older cannot take care of the stream the way we used to. We need younger farmers to take leadership for the benefit of our stream and our community. This is how our family tradition will continue.

For the first time in my life, so many of our lo'i are empty because of the inconsistent and decreased water supply. However, I have hope that we can recover and continue farming and stewarding this 'āina. As I understand it, amending the IIFS for Wai'oli Stream would allow us to protect the stream's resources and continue our Native Hawaiian practice of farming kalo. This will allow my grandchildren, great-grandchildren, and the generations that follow, the security of knowing they will have enough water to steward and work with the same 'āina as the ancestors that came before them. Please vote to amend IIFS and ensure the viability of perpetuating our cultural practices for the generations to come.

Mahalo,

Wilbert "Afuk" Tai Hook

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May 18, 2021

Commission on Water Resource Management

State Department of Land and Natural Resources

P.O. Box 621, Honolulu, Hawai'i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai'oli Stream, Wai'oli Hydrologic Unit (2018), Hanalei Kalana, Halele'a, Kaua'i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

Mahalo for considering the Interim Instream Flow Standard (IIFS) for Wai'oli Stream. I'm Chris Kobayashi, a kalo farmer in Wai'oli Valley and member of the Wai'oli Valley Taro Hui. Mahalo nui to Ayron for all of your hard work in getting us here, and mahalo to you Commissioners for the opportunity to share in April about our precious resources that are an important part of our livelihood and our community. **Adopting this amended IIFS would be so helpful for us farmers** because it would give us the stability to continue farming kalo to feed ourselves, our 'ohana, and our community.

My family has been living and farming in Wai'oli Valley for three generations and over one hundred years. My grandfather moved here from Japan and chose to begin farming in Wai'oli. Initially, my family farmed rice, but by the early 1940s, we expanded to wetland kalo. My father was born in Wai'oli in 1920, the fifth of six siblings. I was born and raised on the same land. My father spent his entire life farming in Wai'oli. Back in 1989, **my family and I declared our use to the Water Commission to irrigate 15 acres of lo'i kalo**, and the Water Commission verified our use in 1993. We have **appurtenant and riparian rights**, as our land abuts Wai'oli Stream. One day, my father told me that he was worried that there might not be anyone left to take care of our kalo farm. I thought of all of his blood, sweat, and tears that had gone into clearing, preparing, planting, maintaining, and taking care of the kalo and the land. I thought: I can't let all that he put into our farm be for nothing. In that moment, I decided to take over our family farm. I continue to live on and steward that same land in Wai'oli today.

Over twenty years ago, we started growing various vegetables and fruits using organic methods and inputs. We also applied that knowledge to our kalo cultivation and implemented sustainable



practices. We are always trying to be better. We work really hard to grow food for ourselves and to supply good kalo to small poi millers who make poi or pa'i'ai for their communities. We also support 'āina-based education and organizations, as well as students and families who do traditional ku'i with their native food. It has been a heartfelt honor to have been a part of this, and we hope to continue to supply these friends and others.

But the 2018 floods devastated our lo'i kalo system. After the flooding, we were unable to plant new fields because all of our equipment, small tools, and our truck were ruined. After numerous repairs, we finally got our tractor fully working again in March 2019 and, weather permitting, we started mowing, tilling, and cover cropping, our farm and preparing our fields. With the huli that we had available to us, we were able to plant three fields in 2019. We now have seven lo'i planted, with the potential to plant 26 lo'i of various sizes.

Our māno was repaired in Fall 2020, but last November more flooding leveled it again. This Spring, several floods have wreaked further damage.

The condition of Wai'oli Stream is in constant flux from all this flooding. Frequent heavy rains cause 'ili'ili to build up and water to breach our banks, requiring us to shovel out the 'ili'ili by hand and build up the banks at the same time. We are constantly working to maintain the māno and 'auwai, especially after heavy rain and wind events, which are so frequent these days. Neither our farm nor the Hui's lo'i are operating at full capacity. So, when it rains, the water in the river is high and floods the area, including Hanalei town. But, our small Hui always shows up when it's time to clean up because this is what we do; we all work together to maintain the lo'i kalo system. We all depend on managing that flowing water for our farms and larger community.

Our Hui is a legal unicorn. We are carrying on a centuries-old traditional practice passed down to us by our ancestors. Our families have stewarded lo'i kalo in Wai'oli since before the State of Hawai'i, conservation districts, and interim instream flow standards existed. Ironically, it wasn't until we were forced to undertake major repairs because of the 2018 flooding that we discovered we had to navigate a legal maze just to continue to steward resources our ancestors protected for generations. We have been working really hard since 2018 to understand and go through all the necessary legal processes, including this IIFS. It's a lot, but we also know that it is important for the greater good. We are grateful that the people of Hawai'i protect the **traditional and customary Native Hawaiian practice of kalo cultivation** as a **public trust purpose under the Hawai'i Constitution and the Water Code**.

Like our parents and grandparents, we know and mālama Wai'oli Stream, and we understand how to balance our **instream use** with stream vitality and other needs. As the waters ebb and flow, farmers working with the land, water, and kalo are so intertwined with nature and their own lives, that we too ebb and flow. So, we'd like some flexibility to address variations with crop cycles etc., which we are hopeful we have with Ayrton's proposed figure.

Last month made three years since the 2018 floods. We need to be pau with the legal permitting so we can focus on rebuilding our irrigation system and lo'i kalo.

Where we can, we need stability and predictability in those areas that can be actively and adaptively managed. **Adopting Ayrton's amended IIFS of 4 mgd during low flow conditions would allow us to continue to take care of Wai'oli and move forward in the legal process and with our lives.** This would be helpful for us and for future generations, as our Hui is also

part of Wai‘oli’s kalo growing lineage that has persevered for hundreds of years. We carry on this tradition, this legacy, and we want this traditional culture to continue for generations to come.

Thank you for this opportunity to share my testimony and for your continued support of the Wai‘oli Valley Taro Hui. We humbly ask you to please approve the numeric IIFS for Wai‘oli Stream.

Mahalo,

Chris Kobayashi

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May 18, 2021

Commission on Water Resource Management

State Department of Land and Natural Resources

P.O. Box 621, Honolulu, Hawai‘i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai‘oli Stream, Wai‘oli Hydrologic Unit (2018), Hanalei Kalana, Halele‘a, Kaua‘i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

Mahalo for this opportunity to testify in **strong support of the numeric Interim Instream Flow Standard (IIFS) for Wai‘oli Stream**. My name is Demetri “Dimi” Rivera, and I am a Board Member with the Wai‘oli Valley Taro Hui. I really appreciate your staff’s kōkua on this important issue, and for Ayron’s help in particular. Your Commission’s support back in April gave us hope for the future vitality of kalo farming in Wai‘oli.

Together, Chris Kobayashi and I maintain and farm about 10 acres. Our kalo cultivation is a **protected public trust purpose**, and our land has **appurtenant and riparian rights**. Back in the 1980s, Chris and her family **declared their uses with this Commission**, which were later verified.

I have been farming kalo full-time for over 25 years. I know that wetland kalo requires good, fresh, flowing water from the mountains. Our **water use is instream** because we only use the water for kalo cultivation, and then that water flows through our lo‘i kalo and back into Wai‘oli Stream. If there isn’t enough water or flow is inconsistent, we get lots of weeds, and our kalo quality can be so bad that sometimes we just gotta plow under. Summer is almost here, and we need to make sure that our system is repaired, and the farmers can use the water we need. If ‘auwai flow is low in the hot months, the water is warm and the kalo will rot due to diseases and a poor environment. No sense plant.

In the last three years, Chris and I, as well as the rest of the Hui, have dealt with devastating flooding. The Hui has maintained the mānowai, po‘owai, and ‘auwai for generations, especially during emergencies, which now seems like every time there is a big rain. In the wet season, we brace ourselves for big rains and storms, hoping that there won’t be any more flooding. The 2018 flood was really unlike anything we’ve seen. Through hard work and generous community support, we restored the māno, cleared the stream of debris, and fixed the ‘auwai so that we had enough water to start planting at limited capacity again. After almost three years, **we need to move forward with the legal process so we can focus on rebuilding our lo‘i kalo system**.

Adopting Ayron's proposed IIFS would bring us one step closer to resolution. Mahalo nui for this opportunity to testify. I ask that the Commission please adopt the proposed IIFS of 4 mgd during low flow conditions.

Mahalo,  
Demetri "Dimi" Rivera

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May 18, 2021  
Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai'i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai'oli Stream, Wai'oli Hydrologic Unit (2018), Hanalei Kalana, Halele'a, Kaua'i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

Mahalo for the opportunity to testify on this important matter. As a kalo farmer in Wai'oli Valley, Kaua'i and a member of the Wai'oli Valley Taro Hui, I strongly support the amended Interim Instream Flow Standard (IIFS) for Wai'oli Stream. My name is Dwight Morishige and I am a third generation kalo farmer. I have been farming in Wai'oli Valley for over 40 years and my family has been here in Wai'oli for 120 years.

I grew up in this community that dedicated itself to farming kalo. From before I can remember, my father and his family farmed kalo. My father-in-law, Bobby Tasaka, filed a declaration of water use for the land I now steward. He also taught me how to farm kalo, and passed this tradition down to me. I currently lease ten acres for kalo cultivation, and carry on my family and my community's kalo farming practices just as I was taught. The 2018 flood was the worst I have ever seen. All of our hui's kalo farmers, both individually and collectively, suffered tremendous impacts from that flooding that we are still dealing with today.

Our community has always worked together to manage our resources on a regular basis. This management includes consistent maintenance of the entire lo'i kalo irrigation system, as well as the stream and watershed upon which we depend. We know this place really well and are familiar with the resources within it. We know that it is not just Wai'oli Stream, but the larger watershed system we are within that we have a responsibility to mālama in order to ensure enough water for all of us, and for future generations, just as our ancestors did before us. Since the flood, our hui has been working really hard to fulfill the necessary requirements just to make sure we can continue our practice of kalo farming in Wai'oli. Even though our community has always been tight knit, this is the first time we received so much help. Without this help and cooperation, kalo farming would not be possible. In order to preserve both this nutritional food and traditional practice, it is important that our younger generation be able to continue our Native Hawaiian and family practice of farming kalo.

Thank you for your time, work, and care in the decisions you make about one of the most precious resources we have. Thank you also for this opportunity to share my support of the amended IIFS for Wai'oli Stream of 4 mgd, which will allow us to continue our traditional and

customary kalo cultivation for future generations. I ask that you please adopt this amended IIFS for Wai‘oli Stream, and help us to continue to do what we do best – farm kalo.

Mahalo,  
Dwight Morishige

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May 18, 2021  
Commission on Water Resource Management  
State Department of Land and Natural Resources  
P.O. Box 621, Honolulu, Hawai‘i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai‘oli Stream, Wai‘oli Hydrologic Unit (2018), Hanalei Kalana, Halele‘a, Kaua‘i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

Thank you for the opportunity to testify on this important matter concerning Wai‘oli Valley’s resources, which my practice of kalo cultivation depends on. As a taro farmer and member of the Wai‘oli Valley Taro Hui, I strongly support adopting the amended Interim Instream Flow Standard (IIFS) for Wai‘oli Stream of 4 mgd.

My name is Wayne Tanji and I have been farming in Wai‘oli Valley for over 30 years. Prior to becoming a farmer, I worked retail in Hanalei. My friends were taro farmers and so I eased into farming by slowly acquiring patches from them. Eventually, I decided to farm full-time. I currently lease 1.8 acres of land where, prior to the floods in 2018, I maintained seven wetland kalo patches. Kalo farming is a big part of Wai‘oli’s identity.

As a hui sharing kuleana over the same system, we know that our water use affects others further down the ‘auwai so we all work hard to ensure that our uses are as efficient as possible to reduce impacts on others. Because of the ongoing maintenance to our lo‘i kalo system and intake in particular, our hui lacks the water we need to cultivate all of our crops. The 2018 flood completely devastated my farming operations. Because of the location of my patches, the damage to our ‘auwai system has hit me particularly hard. My lo‘i are not receiving enough water to ensure a consistent level of through-flow and, as a result, my taro does not receive enough water to grow properly. Without the necessary water to act as a weed suppressant, I cannot eradicate the weeds fast enough to save my kalo. It is a lot of work.

Currently, at 71 years old, I am barely able to maintain two of my original seven patches. Although sometimes friends give me a hand, I mostly farm alone. Even if the water flow returned to pre-flood levels today, it would still take me about a year to get back to “normal” production. To say that this situation is causing me stress is an understatement. Water is so vital for us to continue farming, it is the lifeblood of this place and our practice. Without it, we cannot survive.

We are still working hard to recover, but adopting an amended IIFS for Wai‘oli Stream would ensure protection of one of our most valuable resources: water. The historic floods caused

immense damage to our water system, which has been compounded by increasing and severe weather events. Establishing the amended IIFS would get our hui one step closer to pre-flood conditions. It would give me hope that we can continue kalo farming in Wai‘oli for generations to come, something I think is really important for our small community.

Thank you again for this opportunity to submit testimony in support of the amended IIFS for Wai‘oli Stream. Please vote to adopt the amended IIFS for Wai‘oli Stream today, and help us to continue this recovery and keep our little hui and our practice alive.

Mahalo,

Wayne Tanji

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May 18, 2021

Commission on Water Resource Management

State Department of Land and Natural Resources

P.O. Box 621, Honolulu, Hawai‘i 96809

**Re: Agenda Item B1: Amend Interim Instream Flow Standards for Wai‘oli Stream, Wai‘oli Hydrologic Unit (2018), Hanalei Kalana, Halele‘a, Kaua‘i**

Aloha Chair Case and Members of the Commission on Water Resource Management,

My name is Sierra-Lynn Stone and I am a fifth generation Native Hawaiian kalo farmer in Wai‘oli Valley. I was unable to attend the April meeting due to finals and presentations I had for school that day. However, I know how moved our hui members were by your support. I cannot fully express just how grateful we are for you all and Ayron for your continued aloha, all the work you put in, and the use of Native Hawaiian custom and tradition as a basis for the Interim Instream Flow Standard (IIFS). We look forward to continuing to partner with you to ensure our traditional way of life can survive in these modern times. Please vote to amend the IIFS as it is crucial to the continued protection of our cultural resources and practices.

My love for farming began at an early age. I was raised in the lo‘i kalo where I learned and grew to love the culture of kalo, the various aspects of hard work, and how to have fun while working. My dream is to carry on this tradition and lifestyle, and to teach my children and future generations of my family to love it as I do. Initially, my career pathway was very different. After I graduated from high school, I went off to Washington State University to become a registered nurse. While there, my grandfather’s health took a turn for the worse. I had the option of continuing school in Washington, but instead, I chose to return home to run the family farm. Since 2010, I have been running the entire farm.

Our farm is nine acres. Since the flooding in 2018, we have struggled to maintain our “normal” operations. We have had to deal with many challenges, but we work really hard to continue. Right after the 2018 floods, we were informed that portions of our centuries-old lo‘i kalo irrigation system, a system that predates modern zoning laws and the Water Code itself, was located on state conservation land. Since then, we had to get a right of entry and easement so we could access and maintain our mānowai and po‘owai. Now, we are before you seeking an amendment to the IIFS for our traditional use that has always existed in Wai‘oli Valley. This has really affected our entire community. These legal and legislative processes have been difficult to

track and effectively participate in. But, we are doing our best because we are committed to this place. With your Commission's help and an amended IIFS, we can maintain what is pono: adequate water for our stream, stability for our farms, and support to continue our cultural practice.

While we've been able to make some progress since the devastating floods, our farm, as well as all the other farms in Wai'oli, still have a long way to go. Flooding continues to happen in Wai'oli. As you know, we've already endured several weather events in the last several months. Our families and our community rely on us to face challenges as they come. My love for farming is limitless — it is hard to put into words. The opportunity to love what you do, and do what you love, is an experience that I hold dear. It is priceless and I plan to continue my family's tradition of farming here on the North Shore of Kaua'i. With the Water Commission's help, I can do just that.

Thank you again for this opportunity to testify. It has been an honor to carry on my family's legacy. Our passion for farming has been the heartbeat of our family for the past five generations. With your help, we can ensure that heartbeat remains strong for the generations to come. Please vote to amend the IIFS and support traditional kalo cultivation in Wai'oli.

Mahalo nui!

Sierra-Lynn Stone

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May 18, 2021

Commission on Water Resource Management

State Department of Land and Natural Resources

P.O. Box 621, Honolulu, Hawai'i 96809

**Re: Agenda Item B1, Amend Interim Instream Flow Standards for Wai'oli Stream, Wai'oli Hydrologic Unit (2018), Hanalei Kalana, Halele'a, Kaua'i**

Aloha Chair Case and Members of the Commission on Water Resource Management, My name is Nathaniel Temanu Tin-Wong. I am a kupa of Kaua'i and a Board Member of the Wai'oli Valley Taro Hui. Native Hawaiian practices, like kalo cultivation, are an integral part of Hawai'i today, and we must protect these cultural practices so that they can be passed on to our keiki. Mahalo for the opportunity to share with your Commission in April about our stewardship of Wai'oli Stream and the Hanalei Kalana, which, in turn, reciprocally feed and sustain our 'ohana, communities, and traditional lifeways. I am grateful to be able to share my thoughts with you on why your **Commission should adopt a numeric Interim Instream Flow Standard (IIFS) for Wai'oli Stream now.**

I know how important it is to grow kalo, even though in relation to my fellow Wai'oli Valley Taro Hui members, I am relatively new to farming. I have developed an intimate understanding of how the plant, over many generations, has allowed our people to pass on ancestral knowledge. Knowledge that teaches and epitomizes, at its very core, the mana'o of sustainability. This knowledge teaches us how to be better stewards of our 'āina, how to act in our environment, and how those principles translate to how we interact with each other as humans. Farming kalo feeds not only my physical self, but also feeds my na'au. My practice, as a kalo farmer, keeps me

grounded, and without it, it is easy to get lost. I consider my practice and work important not only to my community, but to humanity as a whole.

I have been given the opportunity to farm lo‘i kalo with Auntie Chris Kobayashi and Uncle Dimi Rivera in Wai‘oli. This ‘āina has appurtenant and riparian rights, and Auntie Chris and her ‘ohana declared their water uses for kalo with your Commission back in the day. As a Native Hawaiian, farming kalo is also a traditional and customary practice for me and my ‘ohana. Growing kalo through organic methods allows me to help to feed my community because people need this mea‘ai. One principle that I strongly believe in is having my family eat together as a household. Eating kalo and poi together as an ‘ohana nurtures and promotes cohesion, which is reflected in other aspects of our ‘ohana’s life and also for other ‘ohana that my kalo feeds. The way that we treat each other at the dinner table and around the poi bowl embodies the spiritual side of food; it is a discipline that teaches us how to treat one another with love and respect. I want to pass these values and principles on to my keiki so that they can continue for generations to come.

The April 2018 flood devastated our ‘āina and lo‘i kalo, and my ‘ohana and I have been forced to start over from the beginning. My wahine, Dominique, and I talked about the seemingly overwhelming amount of work it would take to keep growing kalo. We both decided this is something central to our lives and values and recommitted to kalo farming as a lifestyle. I am dedicated because I know how important this is to me and my ‘ohana. The silver lining in it all, however, has been the closeness and cohesiveness we have developed between us Wai‘oli farmers, working together to help to better the conditions to the extent that we can, so we can all return to farming. I know I have to do this for my ‘ohana and for our Wai‘oli farmers’ ‘ohana, too.

I am grateful that the people of Hawai‘i have committed to protecting traditional and customary Native Hawaiian practices, such as kalo farming, through our Constitution, Water Code, and other laws. With the rapid changes in our community on Kaua‘i from tourism and the slow, but steady, change in demographics, it is important for me that this Commission know that **we—Native Hawaiian practitioners—are still alive, we are still here, and we are devoted to exemplifying those values and traditions passed on to us by our ancestors, namely living with the land and farming kalo.** My daughters are the sixth generation of our ‘ohana in Hanalei and, skipping a couple generations, the fourth generation to be farming lo‘i in Wai‘oli. Culture and practices like kalo farming are still very much here and they must be protected so that they can be passed on to our keiki. I have found, for myself, in kalo farming what has been missing in my life. I was suppressed from my culture growing up and have only now been able to engage in practices, like farming lo‘i kalo, which has allowed me to reconnect with those same kinds of things that my ancestors celebrated. I hope to be able to pass these cultural practices and values on to the next generations, just as I have been able to learn from Auntie Chris and Uncle Dimi.

Knowledge about kalo cultivation and ‘āina stewardship has been a blessing for me. I will give my children this lifestyle, and I feel that it is my kuleana to keep kalo farming alive for them. But to do so, the numeric IIFS for Wai‘oli must support both the life of the stream and the life of the land, especially the lo‘i kalo that have thrived here for centuries. We are grateful for your staff’s kōkua, and Ayron’s hard work in particular. It is refreshing to see Native Hawaiian principles and values come to life in actual decisionmaking, such as having an IIFS for our stream based on a Native Hawaiian principle of diverting not more than 50% of flow. This

Native Hawaiian approach is entirely appropriate for our Hui's Native Hawaiian practice of kalo cultivation.

We in Wai'oli have always been, and will continue to be, committed to providing sustenance for our communities. Cultural practices such as kalo farming must be protected so we can pass them on to our keiki. It is also important to continue these practices so they can be taught to others when the time is right. **Please vote to adopt the proposed IIFS for Wai'oli Stream, which we believe is sufficient to enable our cultural practices as Native Hawaiians to thrive for generations to come.**

We always tell our daughters they can be anything. Today, you have the power to allow them to be kalo farmers, if they so choose.

Mahalo for your time and aloha,  
Nathaniel Temanu Tin-Wong

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May 16, 2021

MEMORANDUM

TO: Ms. Suzanne Case, Chairperson

Commission on Water Resource Management (CWRM)

FROM: Andrew H. Choy, Acting Planning Program Manager Department of Hawaiian Home Lands

SUBJECT: **CWRM Agenda for May 18, 2021, Item B-2 (Reservations of water and Amendment of Interim Instream Flow Standards (IIFSs) for Honokōhau and Kaluanui Streams, West Maui).**

The Department of Hawaiian Home Lands (DHHL) is grateful for and offers the following testimony in strong support of the staff's recommendation to the Commission on Water Resource Management's (CWRM) in Agenda Item B-2 "Approve Surface Water Reservation of 2.00 Million Gallons per Day for the Department of Hawaiian Home Lands and Amend Interim Instream Flow Standards for Honokōhau and Kaluanui Streams in the Surface Water Hydrologic Unit of Honokōhau (6014) and Honolua Stream in the Surface Water Hydrologic Unit of Honolua (6013), West Maui."

Specifically, DHHL supports the proposed reservation of water for DHHL being explicitly included in the CWRM action today, and supports the amount recommended. We believe it is legally required and also appropriate that the reservation for DHHL and the IIFSs be approved at the same time.

DHHL has been actively involved in the consideration of these issues on West Maui for a number of years, and has offered comment and testimony on these matters as they have been considered in public meetings on the Instream Flow Standard Assessment Report and before the Commission. Because we recognize there were comments made at your April 2021 meeting that could indicate a lack of familiarity by some regarding the rights of DHHL, we do offer some background information supporting our testimony and the proposed action.

***The legal basis for DHHL water reservations***

DHHL thanks the Commission for taking action today to protect public trust uses of water in this area.

We note that the CWRM should not privilege one public trust use over another, and reservations of water for and use of water by DHHL are, like instream uses, by definition a public trust use afforded the full panoply of constitutional protections enjoyed by other public trust uses of water. See Kukui at 491, 174 P.3d at 330.1



The Water Code makes it clear that Reservations for DHHL should be made during all allocation decisions whenever legally permissible, if they have not been already taken into account. Specifically, HRS 174C-101(a) notes in part that “Decisions of the commission on water resource management relating to the planning for, regulation, management, and conservation of water resources in the State shall, to the extent applicable and consistent with other legal requirements and authority, incorporate and protect adequate reserves of water for current and foreseeable development and use of Hawaiian home lands as set forth in section 221 of the Hawaiian Homes Commission Act.” Your action today is such a decision. We further note that the Hawai‘i Supreme Court has held that the Commission must take DHHL’s reservation into account when planning and allocating water resources, “and to protect it whenever feasible,” insofar as its status as a public trust resources renders it “superior to the prevailing private interests in the resources at any given time.” *In re Waiola O Molokai, Inc.*, 103 Hawaii 401, 429, 83 P.3d 664, 692 (2004). Accordingly, the Commission must apply a “higher level of scrutiny” to proposed private commercial uses of water where public trust uses will be impacted. *Id.*

Not only is DHHL’s water reservation (and any use of water from that reservation) protected by the public trust doctrine, but the Hawaii Supreme Court has held that the Commission itself must take a proactive role in protecting DHHL’s interests:

...the Commission must not relegate itself to the role of a mere “umpire passively calling balls and strikes for adversaries appearing before it,” but instead must take the initiative in considering, protecting, and advancing the public rights in the resource at every available stage of the planning and decision making process...In sum, the state may compromise public rights in the resource pursuant only to a decision made with a level of openness, diligence, and foresight commensurate with the high priority these rights command under the laws of our state.

*Id.* at 162, 9 P.3d at 474.

#### ***Calculation of DHHL water needs***

DHHL utilizes a three-tiered planning system to guide development and management of its land holdings for the benefit of current and future beneficiaries. The planning system includes an over-arching General Plan, a second tier of Strategic Program Plans and Island Plans (which includes our Water Policy Plan2), and a third tier of more specific Regional and Development Plans.

DHHL uses documents developed in this planning system, along with county and other appropriate water system standards, to determine its reservation needs. We are pleased by the explicit incorporation of DHHL’s calculations into the staff’s recommendation for a reservation amount.

#### ***Conclusion***

As a public trust user of water, DHHL recognizes that we have a priority of water greater than private commercial uses. We also realize and acknowledge, in accordance with our Water Policy Plan, that we are not going to take so much water that other public trust uses, such as those in Honokōhau Stream, should be inappropriately impacted. We are pleased that this solution, if followed by supportive actions from Maui County, will allow for the use of R1 water, to minimize such impacts.

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May 16, 2021

Via Electronic Mail  
Commission on Water Resource Management  
Kalanimoku Building  
1151 Punchbowl Street, Room 227  
Honolulu, Hawai‘i 96813  
dlmr.cwrmm@hawaii.gov

Re: Agenda Item B.2

Approve Surface Water Reservation of 2.00 Million Gallons per Day for the Department of Hawaiian Home Lands and Amend Interim Instream Flow Standards for Honokōhau, Kaluanui, and Honolulu Streams, West Maui

Dear Chair Case and Commissioners:

Mahalo for the opportunity to comment on (1) the numerical interim instream flow standards (“IIFSs”) proposed for Honokōhau, Kaluanui, and Honolulu streams, and (2) the surface water reservation requested by the Department of Hawaiian Home Lands (“DHHL”).

At the outset, and as an organization with experience advocating on behalf of communities seeking restoration of healthy waters and waterways throughout the pae ‘āina, we appreciate the Commission’s initiative in recent years to more proactively address water resource management. We likewise support DHHL’s request for a surface water reservation, which—like the natural flow and traditional/customary uses many of our clients depend on—is a constitutionally protected public trust use of fresh water resources under Hawai‘i law.

After discussions with the Honokōhau community, and hearing their willingness to accept this IIFS as a workable compromise, we support the 8.6 million gallons per day (“mgd”) allotted to natural flow in Honokōhau Stream in Phase One of the IIFS, to the extent that it will provide suitable water—at least in the foreseeable future—for the ongoing lo‘i kalo cultivation in the valley and for further lo‘i restoration. However, we are concerned with that ongoing threat of waste given that offstream uses have been shown to be 4.3 mgd but the proposed IIFS allows for much higher diversion levels under most flow conditions.<sup>1</sup> To the extent that reservoir capacity in the area is limited, the only way to prevent waste of these millions of gallons daily is to leave them in the stream. We encourage the continued exploration of methods to best utilize diverted stream water, including through improved storage capacity. Under no conditions should stream water be dumped due to poor planning and management on the part of the diverter.

Phase Two of the IIFS, incorporating a surface water reservation for DHHL’s projected demand of 2 mgd, sets a variable IIFS allowing diversion of 50% of stream flow at diversion 770 during all flow conditions.<sup>2</sup> Earthjustice supports variable IIFS levels in order to best protect instream uses while allowing for reasonable beneficial offstream uses. However, we respectfully suggest that the Commission should not regard 50% of natural stream flow as a *de facto* starting point for low-flow stream restoration.

In most streams, much higher rates of stream restoration are necessary to protect instream uses and healthy watersheds (including habitat for native fauna). As the Commission continues to evaluate and amend stream flow standards in other ‘āina, we encourage a practice of restoring as much water as possible to natural flows and instream users, with off-stream diversions limited to those reasonable beneficial uses that meet a demonstrable need. Furthermore, and as with Kaluanui and Honolulu Streams, any streams with derelict or unnecessary diversion works should likewise have stream flow fully restored, and the diversion works formally abandoned and removed.

Regarding DHHL’s surface water reservation, we support reserving 2 mgd for homestead use at Honokōwai. We also support DHHL’s proposal to use its surface water allotment to dilute the salinity of R-1 treated wastewater from Maui County’s Lahaina Wastewater Reclamation Facility (“LWRF”) for agricultural use. The County’s current practice of discharging its nutrient-laden R-1 into the groundwater below the treatment plant results in damage to corals and other marine life as the effluent flows into the ocean via nearshore submarine springs. While this treated sewage wreaks havoc on reefs, its high nitrogen content makes it ideal for terrestrial irrigation, so long as salinity (chloride) levels are suitable to the plants being irrigated. DHHL’s willingness to allow use of its surface water reservation to dilute LWRF

R-1 water for reuse presents Maui County with an opportunity to reduce its pollution of nearshore waters at Hā‘enanui (Kahekili Beach Park), for which we and our clients have long advocated.

While Honokōhau’s water future looks promising on paper, implementation and enforcement of IIFS are legitimate concerns for the community. As the Staff Submittal notes, Maui Land & Pineapple (“MLP”) is responsible for preventing any wasting of stream water, including by upgrading its diversion intake to prevent un-needed stream water from entering the ditch during high-flow periods or events. Staff Submittal at 3. Thus far, those upgrades (ordered by the Commission on November 19, 2019) have not, to our knowledge, been completed. It also remains unclear how the new IIFS will be implemented, or when. Given the delay in complying with the Commission’s directives regarding waste, there is justifiable concern that MLP, which is also responsible for modifying diversion 770 to meet the Phase One IIFS, will not do so within the 120 days required in the Staff Submittal. We urge the Commission to establish a clear timetable for implementation of the IIFS to ensure that the IIFS will be met on schedule.

The section of the Staff Submittal titled “ENFORCEMENT” discusses how an IIFS violation is defined and how the IIFS will be monitored, but provides no information on how the IIFS will be enforced if violated. MLP is required to meet the IIFS “100% of the time,” and presumably, real-time in-stream monitoring will show whether stream levels fall below IIFS requirements. Of immediate and pressing concern to kalo farmers during any reduction of flow, however, is maintaining sufficient flow to their lo‘i, and healthy flow mauka to makai. Please provide clarity on what specific recourse or actions are available to the Honokōhau community if flow levels fall below the IIFS, including detail regarding what immediate steps will be taken to protect instream uses if the IIFS is violated.

Respectfully submitted,  
/s/ Mahesh Cleveland  
Mahesh Cleveland  
Leinā‘ala L. Ley  
EARTHJUSTICE

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Aloha, my name is Lopaka Wilson.

I am a Keiki ‘Ohana Noho Papa of Honokohau which means I am a multigenerational lineal descendant of this specific place. My grandparents Aimoku and Lehua Pali came back to Honokohau Valley in the 1970’s after years of being forced out due to have to leave and their parents being forced to work for the plantations. My grandparents came back for the purpose of restoring kalo patches and to try to help bring back the water that had been taken and mismanaged for years. The restoration of the water not only brings back the kalo, but also ensures the ability to continue cultural practices that my great grandparents were not allowed to pass on due to the plantations’ greed over the water. My grand parents helped create awareness about the water issues Hawaiians were facing through the State of Hawaii Legal System in the 1980’s. They started this battle and have both passed on without ever getting closure. Although they are not here in body, they are here in spirit to watch myself and my children see this struggle though and restore the water that has been taken for far too long.

In our valley, if our neighbor is using too much water for their patches, it has a direct negative impact on the patches below. As neighbors we try to work together so everyone can succeed. In the same way, we have to work as a cohesive unit in our neighborhood, we would like to work with other off stream users as a community. I want to encourage DHHL, DHS and MLP to emulate the compromise we have shown and to not take more water than they need and work together in this small community.

I support the current IIFS and DHHL reservation at this time.

Mahalo for your time.

Lopaka Wilson

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Plantation Estates Lot Owners Association  
10 Hoohui Road, Suite 302  
Lahaina, Hawaii 96761  
(808) 669-9030

May 14, 2021

Ms. Suzanne Case, Chairperson  
Mr. M. Kaleo Manuel, Deputy Director  
Commission on Water Resource Management  
P.O. Box 621  
Honolulu, HI 96809

Dear Ms. Case and Mr. Manuel,

My name is Jonathan Kindred, and this testimony is offered in my capacity as President of the Plantation Estates Lot Owners Association (PELOA). PELOA is part of Kapalua Resort and is a community comprised of residential homesites, family farms, and one commercial agricultural operation. The agricultural, landscape irrigation, and fire protection water sources for PELOA have been provided by Kapalua Water Company through the Honokohau Ditch since our community was initially developed in 1990.

During the course of 2019 PELOA connected actively with CWRM staff and I truly appreciate the open and constructive engagement they offered to us. We also submitted both oral and written testimony in public hearings (please see attached the written testimony from September 9, 2019).

As the Commission is now set to act on the Interim IFS for the Honokohau Stream we are testifying again to seek some assurance as to the availability of this critical water source to fulfill our existing uses. While we are pleased that non-instream uses such as ours have been deemed to be reasonable and beneficial, we are concerned that the recommendations presented to you contain the acknowledgment that..."It is understood that during extreme drought (<Q90; <11.0 mgd at Aotaki Weir), 100% of the off-stream uses may not be met".

We are concerned because it is precisely during these periods of extreme drought when we will be most in need of accessing non-potable water from the Honokohau Stream. Most importantly, we are concerned that those portions of our neighborhood which are serviced by fire hydrants with non-potable water will not have water available to fight fires which may

occur. We are alarmed that the Commission would contemplate and adopt a plan which would give rise to such a scenario.

We acknowledge the statement in the Staff Submittal as follows..."However, Kapalua Water Company (KWC) has plenty of capacity in its drilled wells to utilize groundwater as a backup supply for its non-potable needs when insufficient water is available in the ditch". Further, we are aware of the state of the wells being referenced, but we think it is important to note that these wells are owned and operated by Maui Land and Pineapple Company, Inc. (MLP) which is no longer the owner of KWC. MLP sold KWC to Hawaii Water Service Company (HWSC) effective May 1, 2021. We are unaware of any agreement between MLP and HWSC which requires MLP to make this groundwater available to ensure no interruptions in our non-potable water supply.

We are sure it is not the intent of the CWRM, in addressing the long-standing need for a new IIFS for Honokohau, to create a potential threat to life and property in our community. To address the issue that could arise, however, we thus respectfully request the Commission, if you decide to adopt the new IIFS as recommended, require MLP and HWSC to enter into an agreement that ensures uninterrupted supply of water in our non-potable system to PELOA in the course of compliance with your IIFS decision.

Thank you for your consideration.

Sincerely,



Jonathan B. Kindred

Aloha kākou,

My name is Sanna Ka'uhane, my family and I live in Honokōhau valley where we currently farm dryland kalo.

We definitely support this DHHL reservation of 2 MGD.

Now that we are on the tail end of the pandemic we are all very eager to see Maui Land and Pine follow through with the commissions 2019 order to improve their intake to ensure that no more water than what has been dictated in the off-stream demand is diverted from the stream. Over a centuries worth of water has already been taken away from stream life and from the generational lo'i kalo farmers whose families still reside in the valley today. Its time for action by Maui Land and Pine, to develop a simple diversion that doesn't require extensive permitting and get it installed. There needs have been established. The longer the upgrades take the longer the waste continues. We'd like to ask the commission to establish enforcement guidelines so that our community here in the valley can keep a watchful eye on our off-stream neighbors to make certain that no more than what has been set as their off-stream demand is being taken.

Lastly, I do support these IFS numbers however I do have some concern with the Q90 flow in Phase 2 which is only 6.8 MGD. There are a couple of large islands inside of Honokōhau stream, the one right in front of where we live is 2.85 acres. It's not very wide but it is very long. These islands split the stream flow in these areas and I can assure you it's definitely not a 50/50 split. Ultimately, the river decides where it's going to go and it's not uncommon to see 80% of the flow on one side of the island. I feel that this 6.8 MGD flow during these "drought" periods will not be sufficient enough to sustain stream life in these areas. Maui Land and Pine has access to both surface water and ground water during these drought periods, the stream doesn't. Maui Land and Pine has three wells on their property, two of them already have operating pumps. These wells are far enough apart that they are able to be pumped simultaneously, producing 2 MGD. These two wells alone are enough to meet their 1.8 MGD demand. They could also pump from the third well as well to help lessen the burden on the other two wells, and they would easily be able to meet their demand. They could also cut back irrigation to gentleman's estates, luxury homes resorts and golf courses during these drought periods where we should all be more mindful of our water consumption. If in this second Q90 period, Maui Land and Pine is required to use this back up water source that they already posses, then an extra 1.6 MGD could remain in the stream bringing the IFS up to 8.4 during these low periods. We, out here in the valley, we know what 6.8MGD looks like. It's not much. An IFS of 8.4 MGD looks much more promising for sustaining the native habitats of stream life through these low flow periods, while still providing for off-stream public trust users. Like Ayron said in the last meeting, the stream doesn't have a back up. Mahalo nui for taking the time to listen to all of us today!

Sanna Ka'uhane

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Aloha, May 12, 2021

My name is William Wood. My family and I are Honokohau Valley residents. We support the proposed IIFS for Honokohau, along with the DHHL's future reservation of two MGD .

My family, along with the community, restore lo'i and raise kalo in Honokohau Valley. The majority of what is grown is donated to the community for school fundraising and family events.

There have been many occasions when our entire crop has been destroyed due to lack of water in the stream, which could have been avoided with proper management of taro gate by ML&P.

There was a period of years when I had to call ML&P every few days to encourage them to clean the taro gate so that flow would be restored to the stream and auwai systems in a timely manner. Unfortunately, it

could sometimes take them over ten days and at that point, the damage is done. Not only to our resident's crops and livestock, but also to our native stream life.

After the flood of September 2018, the flow in the stream was greatly diminished. We repeatedly tried to contact ML&P to restore the water flow but did not receive a response. Meanwhile, ML&P was wasting the water which was overflowing into the ocean at Hanakao'o and is documented in the 2019 wastewater complaint. Currently, we are still uncertain who to contact when there are problems with low stream flow. In a Maui News article dated Nov 22, 2019 it states:

When asked by commissioner Michael Buck how much water will be back in the stream after the intake is fixed and ML&P is getting only what it needs, state Department of Land and Natural Resources hydrologist Ayron Strauch replied that it fluctuates.

*"The amount that they're taking varies over time based on flows available," Strauch said. "Their end use, even with system losses and inefficiencies, are probably no more than 5 or 6 mgd. . . . Last night, they were taking 40 mgd. There is a lot more water that should be in the stream."*

This is the reason we believe it is extremely important that the new system put in place allows the water to stay in the stream regardless of the state of the diversion or the response time of ML&P. We would encourage the commission and ML&P to consider using a similar system that is currently used at Kahoma Valley's intake rather than using an electronic gate. An electronic gate takes power, regular maintenance and could easily malfunction, while a permanent pipe would take basic maintenance like cleaning taro gate after high water. This would ensure the water would stay in the stream while giving ML&P time to respond.

Mahalo for your consideration and time,  
William Wood

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May 16, 2021

Via Electronic Mail  
Commission on Water Resource Management  
Kalanimoku Building  
1151 Punchbowl Street, Room 227  
Honolulu, Hawai'i 96813  
dlmr.cwrmm@hawaii.gov

Re: Agenda Item B.3

Approval of the County of Maui Department of Water Supply's Project Description to Update the Water Use and Development Plan for the Island of Moloka'i

Dear Chair Case and Commissioners:

Mahalo for the opportunity to comment on the scope of work for Maui County Department of Water Supply's ("DWS's") update to the Moloka'i Water Use Development Plan ("WUDP"). We appreciate the outreach that DWS and consultant Townscape, Inc. have initiated with community members, stakeholders, and advocates in developing a plan for the update. After discussions with our clients on Moloka'i and other community members, we respectfully request that the scope of work for the WUDP update include specific language reflecting a commitment to incorporate mitigative actions to increase aquifer recharge and protect the nearshore coastal environment from excessive runoff and sedimentation. In updating the WUDP, we strongly urge a holistic planning process that addresses the

hydrological cycle both on the front end (aquifer recharge/erosion control), in addition to backend considerations (constraining pumping and diversion to what the hydrological system can support/water conservation measures for end users). Ground water resources are inextricably linked with nearshore marine resources, and this is perhaps nowhere more apparent than on Moloka‘i.

Moloka‘i reefs are a vital food source for residents and include the densest and largest continuous reef in the main Hawaiian Islands along the southern shore. Moloka‘i’s southern fringing reef is regarded as a state and national treasure, but also faces numerous threats, most of which are induced by humans. One major threat to the reefs is sedimentation caused by massive surface runoff during heavy rain events. These events are easily visible along the southern, western, and northwestern coasts of Moloka‘i as massive plumes of reddish-brown runoff surrounding the island. This storm sediment has periodically smothered the reef for decades. While massive amounts of water and sediment flow over the top of the reefs after heavy rains, less water has reached the shore via subterranean seepage since Moloka‘i’s aquifer system was developed with wells: groundwater withdrawals directly reduce natural discharge to the ocean and streams,<sup>1</sup> and such discharge is vital to maintaining the abundance and vibrancy Moloka‘i’s reefs are famous for.

Reforestation with native plants can help to control runoff by slowing the water’s descent over land and enhancing the soil’s water retention capacity. Retained water, in turn, seeps down into the aquifer, recharges it, and flows down to the ocean either underground or in streams—instead of sloughing off the surface and taking the soil with it, smothering the reef in the process. Water pumped from a well or diverted from a stream is water that cannot then flow to the shoreline via natural hydrological processes, but conversely, additional water retained for aquifer recharge means more water that *can* percolate to the coastline, potentially offsetting some of the impacts to nearshore flow caused by well pumpage. Establishing mauka-to-makai watershed management that promotes aquifer recharge—while protecting the shoreline from runoff—is a common-sense solution that should be part of any water use plan for Moloka‘i, which is the only island designated as a ground water management area in its entirety, and where the community depends directly on the health of the reefs and nearshore environments for subsistence and sustenance.

For the foregoing reasons, we respectfully request that the following language, or similar, be included in the scope of work for the Moloka‘i WUDP Update2: “The WUDP Update shall develop and propose specific mitigative actions that will help to ensure and enhance Moloka‘i’s near-shore environment, which is vital to the Moloka‘i community and inevitably impacted by groundwater withdrawals and surface water diversions. These actions shall include but not be limited to:

- ☐ implementing community-led efforts to replace invasive species with native species to improve the health of coastal ecosystems;
- ☐ supporting and encouraging efforts to reduce erosion and runoff, including reforestation of watersheds and potential watersheds with native trees and plants to promote rainfall and water retention in the soil; and promoting awareness of the connection between our fresh water uses and the health of reefs and other nearshore systems through educational programs, including the use of outdoor classrooms.”

Respectfully submitted,  
/s/ Mahesh Cleveland  
Mahesh Cleveland  
Leinā‘ala L. Ley  
EARTHJUSTICE

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May 18, 2021

TO: Commission on Water Resource Management

FROM: Barbara Kalipi

Hoolehua Homesteader

RE: Approval of the County of Maui Department of Water Supply's Project Description to Update the Water Use and Development Plan for the Island of Molokai

Aloha Commissioners! I have the following comments to make on the above agenda item:

The project framework to updating the plan is solid with its first 2 core principles emphasizing a holistic approach, community involvement throughout the process I'm not clear how "respect for" the indigenous culture, rights, traditions, and practices will be actualized in the process; I'd like to have it better defined, more along the lines of "alignment with".

In recent community discussions, it was brought to our attention that the Department of Hawaiian Home Lands in its application for a ground water use permit recommended that the permit conditions include certain actions that assure the department's proactive management and stewardship responsibilities for its water resources:

- o Work to implement community-led efforts to replace invasive species with native species to try to improve the health of the coastal ecosystem;
- o Support and encourage efforts to reduce erosion and restore native vegetation in Kalama'ula's mauka areas; and make available certain Community Use designated areas as outdoor classrooms for schoolchildren, particularly for the perpetuation of traditional and customary groundwater dependent practices and resource management.

The updating of the Water Use and Development Plan for Molokai should articulate the responsibility of water users to not just ask for our precious and limited resource but to be stewards of that resource as well as we all should be.

Mahalo for considering my mana'o.

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Aloha, Chair Case and Commissioners:

Our names are Momi and Lana we are residents of Moloka'i. We are submitting this testimony to comment on agenda item B.3, the scope of work that is proposed for the Moloka'i Water Use Development Plan update. We agree that the WUDP for Moloka'i needs to be updated, and feel strongly that more must be done to promote aquifer recharge and protection of the nearshore ecosystems our community depends on. Therefore, we request that the scope of work for the update be amended to include the following provision:

The WUDP Update shall develop and propose specific mitigative actions that will help to ensure and enhance Moloka'i's near-shore environment, which is inevitably impacted by groundwater withdrawals and surface water diversions. These actions shall include but not be limited to: implementing community-led efforts to remove invasive species and replace them with native species to improve the health of coastal ecosystems; supporting and encouraging efforts to reduce erosion and runoff, including reforestation of failing watersheds with native trees and plants to promote rainfall and water retention in the soil; and fostering greater community awareness of the connection between our ground water uses and

the health of reefs and other nearshore systems through educational programs, including the use of outdoor classrooms, to perpetuate traditional and customary groundwater-dependent practices and resource management.”

Mahalo for the opportunity to testify.

Amber

Kukuileiwilimomi

Afelin and Lana

Corpuz. Mahalo, A.

Momi Afelin Thomas

J. Watson Fellow

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May 18, 2021

TO: Commission on Water Resource Management

FROM: Glenn I. Teves

Hoolehua Homesteader

RE: Update of the Molokai Water Use and Development Plan Update

Aloha! I would like to comment on the Molokai Water Use and Development Plan Update to assure the following are addressed:

1. Collect data to support and propose a Surface Water Designation for the Molokai Forest Reserve:

Our watershed is being impacted by climate change and overdrawing at times of limited rainfall, especially during the drier months thereby not allowing the water to seep back into the land to recharge our aquifers. We have been pushing this idea for over 25 years, and it's fallen on deaf ears. You cannot just manage ground water without having an intimate knowledge of surface water use. With a decreasing Sustainable Yield of Kualapuu Aquifer, we need to be quantifying water withdrawals from our watershed as well.

2. Taking care of the land:

I know in the future there will not be sufficient for the almost 18,000 acres of Hawaiian Homes Land surrounding the Kualapu'u Aquifer, so we'll need to look at how we take care of the land. I support the following conditions proposed by DHHL and it should be imposed on any entity requesting water from aquifers and surface water sources that it seriously protects the source and surrounding areas and not just the destination of the water.

“DHHL believes that if this WUPA is issued for the requested amount, permit conditions should include that DHHL shall:

- Work to implement community-led efforts to replace invasive species with native species to try to improve the health of the coastal ecosystem;
- Supported and encourage efforts to reduce erosion and restore native vegetation in Kalama'ula's mauka areas; and
- Make available certain Community Use designated areas as outdoor classrooms for schoolchildren, particularly for the perpetuation of traditional and customary groundwater dependent practices and resource management.”

3. Impress upon the County Water Board their responsibility in upholding provisions of the Hawaiian Homes Act as it relates to prior rights to water.

The Maui Water Board and other county water boards do not understand their responsibilities in upholding provisions of the Hawaiian Homes Act as it relates to the hierarchy of water rights. Many Hawaiian Home Lands areas in Maui are not being properly served, such as Keokea. The County Water Boards are not an entity unto themselves; they are also responsible in upholding the State Water Code, the umbrella law that all counties fall under. This concept needs to undergird all County Water Plans throughout Maui Nui as well as all counties in Hawaii. Mahalo for this opportunity to provide testimony.

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May 15, 2021

Aloha Commissioners,

This testimony is submitted regarding the County of Maui's Water Use Development Plan Proposal, Agenda Item B.3. on your Tuesday May 18 agenda.

The island of Moloka'i has a limited supply of ground water, and salinity counts in some of our wells are rising. Recent USGS studies show that increasing well pumpage will have adverse impacts on shoreline freshwater discharge, which will degrade Moloka'i's fringing reef. (The USGS calls the reef a "national treasure.") Because we are already seeing the negative consequences of inadequate water use management, it is critical for the County's plan to encompass the entire island ecosystem, from mauka to makai.

Effective management of water resources on Moloka'i will require new measures to put water back into the ground. The County's plan should include reforestation, erosion control, replanting native species, water conservation, and community education about the impacts of diminishing ground water discharge on our reefs. If these steps are not taken now, it may be impossible to ameliorate the future consequences of a depleted groundwater system.

Thank you for considering my testimony.

Karen M. Holt, Esq.

Executive Director

Moloka'i Community Service Council

P.O. Box 2047

Kaunakakai, Hawai'i 96748

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Aloha, Chair Case and Commissioners:

My name is Lori Buchanan and I am born, raised and reside in Kalae, Molokai. I am submitting this testimony to comment on your May 18, 2021 agenda item B.3, the scope of work that is proposed for the Molokai Water Use Development Plan update.

I agree that the WUDP for Molokai needs to be updated, and feel strongly that more must be done to promote aquifer recharge and protection of the nearshore ecosystems our community depends on. Therefore, I request that the scope of work for the update be amended to include the following provision:

“The WUDP Update shall develop and propose specific mitigated actions that will help to ensure and enhance Molokai’s near-shore environment, which is impacted by groundwater withdrawals and surface water diversions. These actions shall include but not be limited to: implementing community-led efforts to replace invasive species with native species to improve the health of coastal ecosystems; supporting and encouraging efforts to reduce erosion and runoff, including reforestation of failing watersheds with native trees and plants to promote rainfall and water retention in the soil; and fostering greater community awareness of the connection between our ground water uses and the health of reefs and other nearshore systems through educational programs, including the use of outdoor classrooms, to perpetuate traditional and customary groundwater-dependent practices and resource management.”

My family owns and has perpetual care of an ancient Hawaiian fishpond and we know that what happens on the mountain top effects the conditions in our fishpond and our ocean. I am a limu practitioner and am witness to the decline and demise of limu species important to my culture in my lifetime. Please help us to stop the loss of our native ecosystems and support restoration through the Water Use Development Plan for Molokai.

Me ka ha‘a ha‘a.

Lori Buchanan

Molokai resident and community advocate

P.O. Box 133

Hoolehua, Hawaii 96729

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Sunday, May 16, 2021

Aloha, Chair Case and Commissioners:

I hope this testimony is not too late to be included. I just learned of this this morning. My name is Matt Yamashita and I am a resident of Kamiloloa, Moloka‘i. I was born and raised on Molokai and am an avid fisherman, surfer, and hunter. I am also an Emmy Award winning filmmaker who has been producing documentaries about conservation and environmental issues for the past 20 years.

I am submitting this testimony to comment on agenda item B.3, the scope of work that is proposed for the Moloka‘i Water Use Development Plan update. I agree that the WUDP for Moloka‘i needs to be updated, and feel strongly that more must be done to promote aquifer recharge and protection of the nearshore ecosystems our community depends on. Therefore, I request that the scope of work for the update be amended to include the following provision:

“The WUDP Update shall develop and propose specific mitigative actions that will help to ensure and enhance Moloka‘i’s near-shore environment, which is inevitably impacted by groundwater withdrawals and surface water diversions. These actions shall include but not be limited to: implementing community-led efforts to replace invasive species with native species to improve the health of coastal ecosystems; supporting and encouraging efforts to reduce erosion and runoff, including reforestation of failing watersheds with native trees and plants to promote rainfall and water retention in the soil; and fostering greater community awareness of the connection between our ground water uses and the health of reefs and other nearshore systems through educational programs, including the use of outdoor classrooms, to perpetuate traditional and customary groundwater-dependent practices and resource management.”

This is important to me because in my lifetime, and especially in recent years, I have witnessed the degradation of both terrestrial and marine environments on Molokai. Drought conditions spurred by worsening climate change patterns, an explosion of invasive plants and grazing animals, and lack of

responsible land management by large landowners are all contributing to the problem. To avoid environmental collapse, we need to focus on the basics. Wise use of water resources is important, but more so is the restoration and enhancement of our watersheds to ensure a replenishment of our water resources for supporting a healthy environment and the lives of our future generations.

Mahalo for the opportunity to testify.

**Matt Yamashita**

Owner, Quazifilms Media

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